

**Calendar No. 373**

106TH CONGRESS  
1ST SESSION

**S. 225**

**[Report No. 106-192]**

---

---

**A BILL**

To provide Federal housing assistance to Native  
Hawaiians.

---

---

NOVEMBER 2, 1999

Committee on Banking, Housing, and Urban Affairs dis-  
charged pursuant to the order of October 27, 1999,  
and placed on the calendar

## Calendar No. 373

106TH CONGRESS  
1ST SESSION**S. 225****[Report No. 106–192]**

To provide Federal housing assistance to Native Hawaiians.

## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. INOUE (for himself and Mr. AKAKA) introduced the following bill; which  
was read twice and referred to the Committee on Indian Affairs

OCTOBER 14, 1999

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

OCTOBER 27, 1999

Referred sequentially to the Committee on Banking, Housing, and Urban Affairs, and if the bill is not reported by that Committee by November 2, 1999, the Committee be discharged from further consideration thereof, and the bill be placed on the calendar, by unanimous consent

NOVEMBER 2, 1999

Committee on Banking, Housing, and Urban Affairs discharged pursuant to the order of October 27, 1999, and placed on the calendar

**A BILL**

To provide Federal housing assistance to Native Hawaiians.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Native American  
3 Housing Assistance and Self-Determination Amendments  
4 of 1999”.

5 **SEC. 2. FINDINGS.**

6       Congress finds that—

7           (1) the United States has undertaken a respon-  
8       sibility to promote the general welfare of the United  
9       States by—

10           (A) employing its resources to remedy the  
11       unsafe and unsanitary housing conditions and  
12       the acute shortage of decent, safe, and sanitary  
13       dwellings for families of lower income; and

14           (B) developing effective partnerships with  
15       governmental and private entities to accomplish  
16       the objectives referred to in subparagraph (A);

17       (2) pursuant to the provisions of the Hawaiian  
18       Homes Commission Act, 1920 (42 Stat. 108 et  
19       seq.); the United States set aside 200,000 acres of  
20       land in the Federal territory that later became the  
21       State of Hawaii in order to establish a homeland for  
22       the native people of Hawaii—Native Hawaiians;

23       (3) despite the intent of Congress in 1920 to  
24       address the housing needs of Native Hawaiians  
25       through the enactment of the Hawaiian Homes  
26       Commission Act, 1920 (42 Stat. 108 et seq.); some

1 agencies of the Federal Government have taken the  
2 legal position that subsequently enacted Federal  
3 housing laws designed to address the housing needs  
4 of all eligible families in the United States could not  
5 be extended to address the needs for housing and in-  
6 frastructure development on Hawaiian home lands  
7 (as that term is defined in section 801 of the Native  
8 American Housing Assistance and Self-Determina-  
9 tion Act of 1996, as added by section 3 of this Act)  
10 with the result that otherwise eligible Native Hawai-  
11 ians residing on the Hawaiian home lands have been  
12 foreclosed from participating in Federal housing as-  
13 sistance programs available to all other eligible fami-  
14 lies in the United States;

15 (4) although Federal housing assistance pro-  
16 grams have been administered on a racially neutral  
17 basis in the State of Hawaii, Native Hawaiians con-  
18 tinue to have the greatest unmet need for housing  
19 and the highest rates of overcrowding in the United  
20 States;

21 (5) among the Native American population of  
22 the United States, Native Hawaiians experience the  
23 highest percentage of housing problems in the  
24 United States, as the percentage—

(A) of housing problems in the Native Hawaiian population is 49 percent, as compared to—

(i) 44 percent for American Indian and Alaska Native households in Indian country; and

(ii) 27 percent for all other households in the United States; and

(B) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States;

(6) among the Native Hawaiian population, the needs of Native Hawaiians, as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act, eligible to reside on the Hawaiian Home Lands are the most severe, as—

(A) the percentage of overcrowding in Native Hawaiian households on the Hawaiian Home Lands is 36 percent; and

(B) approximately 13,000 Native Hawaiians, which constitute 95 percent of the Native

1           Hawaiians who are eligible to reside on the Ha-  
2           waiian Home Lands, are in need of housing;

3           ~~(7)~~ applying the Department of Housing and  
4           Urban Development guidelines—

5                   (A) 70.8 percent of Native Hawaiians who  
6                   either reside or who are eligible to reside on the  
7                   Hawaiian Home Lands have incomes that fall  
8                   below the median family income; and

9                   ~~(B)~~ 50 percent of Native Hawaiians who  
10                  either reside or who are eligible to reside on the  
11                  Hawaiian Home Lands have incomes below 30  
12                  percent of the median family income; and

13                 ~~(8)~~  $\frac{1}{3}$  of those Native Hawaiians who are eligi-  
14                 ble to reside on the Hawaiian Home Lands pay  
15                 more than 30 percent of their income for shelter;  
16                 and  $\frac{1}{2}$  of those Native Hawaiians face overcrowding;

17                 ~~(9)~~ the extraordinarily severe housing needs of  
18                 Native Hawaiians demonstrate that Native Hawai-  
19                 ians who either reside on, or are eligible to reside on,  
20                 Hawaiian Home Lands have been denied equal ac-  
21                 cess to Federal low-income housing assistance pro-  
22                 grams available to other qualified residents of the  
23                 United States; and that a more effective means of  
24                 addressing their housing needs must be authorized;

1           (10) consistent with the recommendations of  
2           the National Commission on American Indian, Alas-  
3           ka Native, and Native Hawaiian Housing, and in  
4           order to address the continuing prevalence of ex-  
5           traordinarily severe housing needs among Native  
6           Hawaiians who either reside or are eligible to reside  
7           on the Hawaiian Home Lands, Congress finds it  
8           necessary to extend the Federal low-income housing  
9           assistance available to American Indians and Alaska  
10          Natives under the Native American Housing Assist-  
11          ance and Self-Determination Act of 1996 (25 U.S.C.  
12          4101 et seq.) to those Native Hawaiians;

13          (11) under the treaty-making power of the  
14          United States, Congress had the authority to con-  
15          firm a treaty between the United States and the  
16          government that represented the Hawaiian people  
17          under clause 3 of section 8 of article I of the Con-  
18          stitution, the authority of Congress to address mat-  
19          ters affecting the indigenous peoples of the United  
20          States includes the authority to address matters af-  
21          fecting Native Hawaiians;

22          (12) through treaties, Federal statutes, and rul-  
23          ings of the Federal courts, the United States has  
24          recognized and reaffirmed that—

1           (A) the political status of Native Hawai-  
2           ians is comparable to that of American Indians  
3           and Alaska Natives; and

4           (B) the aboriginal, indigenous people of  
5           the United States have—

6                 (i) a continuing right to autonomy in  
7                 their internal affairs; and

8                 (ii) an ongoing right of self-deter-  
9                 mination and self-governance that has  
10                never been extinguished;

11           (13) the political relationship between the  
12           United States and the Native Hawaiian people has  
13           been recognized and reaffirmed by the United States  
14           as evidenced by the inclusion of Native Hawaiians  
15           in—

16                 (A) the Native American Programs Act of  
17                 1974 (42 U.S.C. 2291 et seq.);

18                 (B) the American Indian Religious Free-  
19                 dom Act (42 U.S.C. 1996 et seq.);

20                 (C) the National Museum of the American  
21                 Indian Act (20 U.S.C. 80q et seq.);

22                 (D) the Native American Graves Protec-  
23                 tion and Repatriation Act (25 U.S.C. 3001 et  
24                 seq.);



1           ~~(E) the National Historic Preservation Act~~  
2           ~~(16 U.S.C. 470 et seq.);~~

3           ~~(F) the Native American Languages Act of~~  
4           ~~1992 (106 Stat. 3434);~~

5           ~~(G) the American Indian, Alaska Native~~  
6           ~~and Native Hawaiian Culture and Arts Devel-~~  
7           ~~opment Act (20 U.S.C. 4401 et seq.);~~

8           ~~(H) the Job Training Partnership Act (29~~  
9           ~~U.S.C. 1501 et seq.); and~~

10          ~~(I) the Older Americans Act of 1965 (42~~  
11          ~~U.S.C. 3001 et seq.); and~~

12          ~~(14) in the area of housing, the United States~~  
13          ~~has recognized and reaffirmed the political relation-~~  
14          ~~ship with the Native Hawaiian people through—~~

15               ~~(A) the enactment of the Hawaiian Homes~~  
16               ~~Commission Act, 1920 (42 Stat. 108 et seq.);~~  
17               ~~which set aside approximately 200,000 acres of~~  
18               ~~public lands that became known as Hawaiian~~  
19               ~~Home Lands in the Territory of Hawaii that~~  
20               ~~had been ceded to the United States for home-~~  
21               ~~steading by Native Hawaiians in order to reha-~~  
22               ~~bilitate a landless and dying people;~~

23               ~~(B) the enactment of the Act entitled “An~~  
24               ~~Act to provide for the admission of the State of~~

Hawaii into the Union”, approved March 18,  
1959 (73 Stat. 4)—

(i) by ceding to the State of Hawaii  
title to the public lands formerly held by  
the United States, and mandating that  
those lands be held in public trust, for the  
betterment of the conditions of Native Ha-  
waiians, as that term is defined in section  
801(15) of the Native American Housing  
Assistance and Self-Determination Act of  
1996, as added by section 3 of this Act;  
and

(ii) by transferring what the United  
States considered to be a trust responsi-  
bility for the administration of Hawaiian  
Home Lands to the State of Hawaii, but  
retaining the authority to enforce the  
trust, including the exclusive right of the  
United States to consent to any actions af-  
fecting the lands which comprise the cor-  
pus of the trust and any amendments to  
the Hawaiian Homes Commission Act,  
1920 (42 Stat. 108 et seq.), enacted by the  
legislature of the State of Hawaii affecting  
the rights of beneficiaries under the Act;

1           ~~(C) the authorization of mortgage loans in-~~  
2           ~~sured by the Federal Housing Administration~~  
3           ~~for the purchase, construction, or refinancing of~~  
4           ~~homes on Hawaiian Home Lands under the Act~~  
5           ~~of June 27, 1934 (commonly referred to as the~~  
6           ~~“National Housing Act” (42 Stat. 1246 et seq.,~~  
7           ~~chapter 847; 12 U.S.C. 1701 et seq.));~~

8           ~~(D) authorizing Native Hawaiian represen-~~  
9           ~~tation on the National Commission on Amer-~~  
10          ~~ican Indian, Alaska Native, and Native Hawai-~~  
11          ~~ian Housing under Public Law 101–235;~~

12          ~~(E) the inclusion of Native Hawaiians in~~  
13          ~~the definition under section 3764 of title 38,~~  
14          ~~United States Code, applicable to subchapter V~~  
15          ~~of chapter 37 of title 38, United States Code~~  
16          ~~(relating to a housing loan program for Native~~  
17          ~~American veterans); and~~

18          ~~(F) the enactment of the Hawaiian Home~~  
19          ~~Lands Recovery Act (109 Stat. 357; 48 U.S.C.~~  
20          ~~491, note prec.) which establishes a process for~~  
21          ~~the conveyance of Federal lands to the Depart-~~  
22          ~~ment of Hawaiian Homes Lands that are equiv-~~  
23          ~~alent in value to lands acquired by the United~~  
24          ~~States from the Hawaiian Home Lands inven-~~  
25          ~~tory.~~

1 **SEC. 3. HOUSING ASSISTANCE.**

2 The Native American Housing Assistance and Self-  
3 Determination Act of 1996 (25 U.S.C. 4101 et seq.) is  
4 amended by adding at the end the following:

5 **~~“TITLE VIII—HOUSING ASSIST-~~**  
6 **~~ANCE FOR NATIVE HAWAI-~~**  
7 **~~LIANS~~**

8 **~~“SEC. 801. DEFINITIONS.~~**

9 “In this title:

10 ~~“(1) DEPARTMENT OF HAWAIIAN HOME LANDS;~~  
11 ~~DEPARTMENT.—The term ‘Department of Hawaiian~~  
12 ~~Home Lands’ or ‘Department’ means the agency or~~  
13 ~~department of the government of the State of Ha-~~  
14 ~~waii that is responsible for the administration of the~~  
15 ~~Hawaiian Homes Commission Act, 1920 (42 Stat.~~  
16 ~~108 et seq.).~~

17 ~~“(2) DIRECTOR.—The term ‘Director’ means~~  
18 ~~the Director of the Department of Hawaiian Home~~  
19 ~~Lands.~~

20 ~~“(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMI-~~  
21 ~~LIES.—~~

22 ~~“(A) IN GENERAL.—The term ‘elderly~~  
23 ~~family’ or ‘near-elderly family’ means a family~~  
24 ~~whose head (or his or her spouse), or whose sole~~  
25 ~~member, is—~~

1                   “(i) for an elderly family, an elderly  
2                   person; or

3                   “(ii) for a near-elderly family, a near-  
4                   elderly person.

5                   “(B) CERTAIN FAMILIES INCLUDED.—The  
6                   term ‘elderly family’ or ‘near-elderly family’  
7                   includes—

8                   “(i) 2 or more elderly persons or near-  
9                   elderly persons, as the case may be, living  
10                  together; and

11                  “(ii) 1 or more persons described in  
12                  clause (i) living with 1 or more persons de-  
13                  termined under the housing plan to be es-  
14                  sential to their care or well-being.

15                  “(4) HAWAIIAN HOME LANDS.—The term ‘Ha-  
16                  waiian Home Lands’ means lands that—

17                  “(A) have the status as Hawaiian home  
18                  lands under section 204 of the Hawaiian  
19                  Homes Commission Act (42 Stat. 110); or

20                  “(B) are acquired pursuant to that Act.

21                  “(5) HOUSING AREA.—The term ‘housing area’  
22                  means an area of Hawaiian Home Lands with re-  
23                  spect to which the Department of Hawaiian Home  
24                  Lands is authorized to provide assistance for afford-  
25                  able housing under this Act.

1           “(6) HOUSING ENTITY.—The term ‘housing en-  
2           tity’ means the Department of Hawaiian Home  
3           Lands.

4           “(7) HOUSING PLAN.—The term ‘housing plan’  
5           means a plan developed by the Department of Ha-  
6           waiian Home Lands.

7           “(8) MEDIAN INCOME.—The term ‘median in-  
8           come’ means, with respect to an area that is a Ha-  
9           waiian housing area, the greater of—

10               “(A) the median income for the Hawaiian  
11               housing area, which shall be determined by the  
12               Secretary; or

13               “(B) the median income for the State of  
14               Hawaii.

15           “(9) NATIVE HAWAIIAN.—The term ‘Native  
16           Hawaiian’ has the meaning given the term ‘Native  
17           Hawaiian’ in section 201 of the Hawaiian Homes  
18           Commission Act, 1920 (42 Stat. 108 et seq.).

19   **“SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING**  
20               **ACTIVITIES.**

21           “(a) GRANT AUTHORITY.—For each fiscal year, the  
22           Secretary shall (to the extent amounts are made available  
23           to carry out this title) make a grant under this title to  
24           the Department of Hawaiian Home Lands to carry out

1 affordable housing activities for Native Hawaiian families  
 2 on or near Hawaiian Home Lands.

3 ~~“(b) PLAN REQUIREMENT.—~~

4 ~~“(1) IN GENERAL.—~~The Secretary may make a  
 5 grant under this title to the Department of Hawai-  
 6 ian Home Lands for a fiscal year only if—

7 ~~“(A) the Director has submitted to the~~  
 8 ~~Secretary a housing plan for that fiscal year;~~  
 9 ~~and~~

10 ~~“(B) the Secretary has determined under~~  
 11 ~~section 804 that the housing plan complies with~~  
 12 ~~the requirements of section 803.~~

13 ~~“(2) WAIVER.—~~The Secretary may waive the  
 14 applicability of the requirements under paragraph  
 15 ~~(1);~~ in part, if the Secretary finds that the Depart-  
 16 ment of Hawaiian Home Lands has not complied or  
 17 cannot comply with those requirements due to cir-  
 18 cumstances beyond the control of the Department of  
 19 Hawaiian Home Lands.

20 ~~“(e) USE OF AFFORDABLE HOUSING ACTIVITIES~~  
 21 ~~UNDER PLAN.—~~Except as provided in subsection (e),  
 22 amounts provided under a grant under this section may  
 23 be used only for affordable housing activities under this  
 24 title that are consistent with a housing plan approved  
 25 under section 804.

1       “(d) ADMINISTRATIVE EXPENSES.—

2               “(1) IN GENERAL.—The Secretary shall, by  
3       regulation, authorize the Department of Hawaiian  
4       Home Lands to use a percentage of any grant  
5       amounts received under this title for any reasonable  
6       administrative and planning expenses of the Depart-  
7       ment relating to carrying out this title and activities  
8       assisted with those amounts.

9               “(2) ADMINISTRATIVE AND PLANNING EX-  
10       PENSES.—The administrative and planning expenses  
11       referred to in paragraph (1) include—

12               “(A) costs for salaries of individuals en-  
13       gaged in administering and managing afford-  
14       able housing activities assisted with grant  
15       amounts provided under this title; and

16               “(B) expenses incurred in preparing a  
17       housing plan under section 803.

18       “(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Direc-  
19       tor shall make all reasonable efforts, consistent with the  
20       purposes of this title, to maximize participation by the pri-  
21       vate sector, including nonprofit organizations and for-  
22       profit entities, in implementing a housing plan that has  
23       been approved by the Secretary under section 803.

24       “(f) APPLICABILITY OF OTHER PROVISIONS.—



1           “(1) ~~IN GENERAL.~~—The Secretary shall be  
2       guided by the relevant program requirements of ti-  
3       tles I, H, and IV in the implementation of housing  
4       assistance programs for Native Hawaiians under  
5       this title.

6           “(2) ~~EXCEPTION.~~—The Secretary may make  
7       exceptions to, or modifications of, program require-  
8       ments for Native American housing assistance set  
9       forth in titles I, H, and IV as necessary and appro-  
10      priate to meet the unique situation and housing  
11      needs of Native Hawaiians.

12   **“SEC. 803. HOUSING PLAN.**

13       “(a) ~~PLAN SUBMISSION.~~—The Secretary shall—

14           “(1) require the Director to submit a housing  
15       plan under this section for each fiscal year; and

16           “(2) provide for the review of each plan sub-  
17       mitted under paragraph (1).

18       “(b) ~~5-YEAR PLAN.~~—Each housing plan under this  
19       section shall—

20           “(1) be in a form prescribed by the Secretary;  
21       and

22           “(2) contain, with respect to the 5-year period  
23       beginning with the fiscal year for which the plan is  
24       submitted, the following information:

1           “(A) MISSION STATEMENT.—A general  
 2           statement of the mission of the Department of  
 3           Hawaiian Home Lands to serve the needs of  
 4           the low-income families to be served by the De-  
 5           partment.

6           “(B) GOAL AND OBJECTIVES.—A state-  
 7           ment of the goals and objectives of the Depart-  
 8           ment of Hawaiian Home Lands to enable the  
 9           Department to serve the needs identified in  
 10          subparagraph (A) during the period.

11          “(C) ACTIVITIES PLANS.—An overview of  
 12          the activities planned during the period includ-  
 13          ing an analysis of the manner in which the ac-  
 14          tivities will enable the Department to meet its  
 15          mission, goals, and objectives.

16          “(c) 1-YEAR PLAN.—A housing plan under this sec-  
 17          tion shall—

18                 “(1) be in a form prescribed by the Secretary;  
 19          and

20                 “(2) contain the following information relating  
 21          to the fiscal year for which the assistance under this  
 22          title is to be made available:

23                         “(A) GOALS AND OBJECTIVES.—A state-  
 24                         ment of the goals and objectives to be accom-  
 25                         plished during the period covered by the plan.

1           “(B) STATEMENT OF NEEDS.—A state-  
 2           ment of the housing needs of the low-income  
 3           families served by the Department and the  
 4           means by which those needs will be addressed  
 5           during the period covered by the plan,  
 6           including—

7                   “(i) a description of the estimated  
 8                   housing needs and the need for assistance  
 9                   for the low-income families to be served by  
 10                  the Department, including a description of  
 11                  the manner in which the geographical dis-  
 12                  tribution of assistance is consistent with—

13                           “(I) the geographical needs of  
 14                           those families; and

15                           “(II) needs for various categories  
 16                           of housing assistance; and

17                   “(ii) a description of the estimated  
 18                   housing needs for all families to be served  
 19                   by the Department.

20           “(C) FINANCIAL RESOURCES.—An oper-  
 21           ating budget for the Department of Hawaiian  
 22           Home Lands, in a form prescribed by the Sec-  
 23           retary, that includes—

24                   “(i) an identification and a descrip-  
 25                   tion of the financial resources reasonably

1 available to the Department to carry out  
 2 the purposes of this title, including an ex-  
 3 planation of the manner in which amounts  
 4 made available will be used to leverage ad-  
 5 ditional resources; and

6 “(ii) the uses to which the resources  
 7 described in clause (i) will be committed;  
 8 including—

9 “(I) eligible and required afford-  
 10 able housing activities; and

11 “(II) administrative expenses.

12 “(D) AFFORDABLE HOUSING RE-  
 13 SOURCES.—A statement of the affordable hous-  
 14 ing resources currently available at the time of  
 15 the submittal of the plan and to be made avail-  
 16 able during the period covered by the plan;  
 17 including—

18 “(i) a description of the significant  
 19 characteristics of the housing market in  
 20 the State of Hawaii, including the avail-  
 21 ability of housing from other public  
 22 sources; private market housing; and

23 “(ii) the manner in which the charac-  
 24 teristics referred to in clause (i) influence  
 25 the decision of the Department of Hawai-

1           ian Home Lands to use grant amounts to  
2           be provided under this title for—

3                   “(I) rental assistance;

4                   “(II) the production of new units;

5                   “(III) the acquisition of existing  
6           units; or

7                   “(IV) the rehabilitation of units;

8                   “(iii) a description of the structure,  
9           coordination, and means of cooperation be-  
10          tween the Department of Hawaiian Home  
11          Lands and any other governmental entities  
12          in the development, submission, or imple-  
13          mentation of housing plans, including a de-  
14          scription of—

15                   “(I) the involvement of private,  
16           public, and nonprofit organizations  
17           and institutions;

18                   “(II) the use of loan guarantees  
19           under section 184A of the Housing  
20           and Community Development Act of  
21           1992; and

22                   “(III) other housing assistance  
23           provided by the United States, includ-  
24           ing loans, grants, and mortgage insur-  
25           ance;

1 “(iv) a description of the manner in  
2 which the plan will address the needs iden-  
3 tified pursuant to subparagraph (C);

4 “(v) a description of—

5 “(I) any existing or anticipated  
6 homeownership programs and rental  
7 programs to be carried out during the  
8 period covered by the plan; and

9 “(II) the requirements and as-  
10 sistance available under the programs  
11 referred to in subclause (I);

12 “(vi) a description of—

13 “(I) any existing or anticipated  
14 housing rehabilitation programs nec-  
15 essary to ensure the long-term viabil-  
16 ity of the housing to be carried out  
17 during the period covered by the plan;  
18 and

19 “(II) the requirements and as-  
20 sistance available under the programs  
21 referred to in subclause (I);

22 “(vii) a description of—

23 “(I) all other existing or antici-  
24 pated housing assistance provided by  
25 the Department of Hawaiian Home

1                   Lands during the period covered by  
2                   the plan, including—  
3                   ~~“(aa) transitional housing;~~  
4                   ~~“(bb) homeless housing;~~  
5                   ~~“(cc) college housing; and~~  
6                   ~~“(dd) supportive services~~  
7                   housing; and  
8                   ~~“(H) the requirements and as-~~  
9                   ~~sistance available under such pro-~~  
10                  ~~grams;~~  
11                  ~~“(viii)(I) a description of any housing~~  
12                  ~~to be demolished or disposed of;~~  
13                  ~~“(H) a timetable for that demolition~~  
14                  ~~or disposition; and~~  
15                  ~~“(III) any other information required~~  
16                  ~~by the Secretary with respect to that dem-~~  
17                  ~~olition or disposition;~~  
18                  ~~“(ix) a description of the manner in~~  
19                  ~~which the Department of Hawaiian Home~~  
20                  ~~Lands will coordinate with welfare agencies~~  
21                  ~~in the State of Hawaii to ensure that resi-~~  
22                  ~~dents of the affordable housing will be pro-~~  
23                  ~~vided with access to resources to assist in~~  
24                  ~~obtaining employment and achieving self-~~  
25                  ~~sufficiency;~~

1           ~~“(x) a description of the requirements~~  
 2           ~~established by the Department of Hawai-~~  
 3           ~~ian Home Lands to—~~

4           ~~“(I) promote the safety of resi-~~  
 5           ~~dents of the affordable housing;~~

6           ~~“(II) facilitate the undertaking of~~  
 7           ~~crime prevention measures;~~

8           ~~“(III) allow resident input and~~  
 9           ~~involvement, including the establish-~~  
 10          ~~ment of resident organizations; and~~

11          ~~“(IV) allow for the coordination~~  
 12          ~~of crime prevention activities between~~  
 13          ~~the Department and local law enforce-~~  
 14          ~~ment officials; and~~

15          ~~“(xi) a description of the entities that~~  
 16          ~~will carry out the activities under the plan;~~  
 17          ~~including the organizational capacity and~~  
 18          ~~key personnel of the entities.~~

19          ~~“(E) CERTIFICATION OF COMPLIANCE.—~~  
 20          ~~Evidence of compliance that shall include, as~~  
 21          ~~appropriate—~~

22          ~~“(i) a certification that the Depart-~~  
 23          ~~ment of Hawaiian Home Lands will com-~~  
 24          ~~ply with—~~



1                   “(I) title VI of the Civil Rights  
2                   Act of 1964 (42 U.S.C. 2000d et seq.)  
3                   or with title VIII of the Civil Rights  
4                   Act of 1968 (42 U.S.C. 3601 et seq.)  
5                   in carrying out this title, to the extent  
6                   that such title is applicable; and

7                   “(H) other applicable Federal  
8                   statutes;

9                   “(ii) a certification that the Depart-  
10                  ment will require adequate insurance cov-  
11                  erage for housing units that are owned and  
12                  operated or assisted with grant amounts  
13                  provided under this title, in compliance  
14                  with such requirements as may be estab-  
15                  lished by the Secretary;

16                  “(iii) a certification that policies are  
17                  in effect and are available for review by the  
18                  Secretary and the public governing the eli-  
19                  gibility, admission, and occupancy of fami-  
20                  lies for housing assisted with grant  
21                  amounts provided under this title;

22                  “(iv) a certification that policies are  
23                  in effect and are available for review by the  
24                  Secretary and the public governing rents  
25                  charged, including the methods by which

1           such rents or homebuyer payments are de-  
 2           termined, for housing assisted with grant  
 3           amounts provided under this title; and

4           “(v) a certification that policies are in  
 5           effect and are available for review by the  
 6           Secretary and the public governing the  
 7           management and maintenance of housing  
 8           assisted with grant amounts provided  
 9           under this title.

10       “(d) ~~APPLICABILITY OF CIVIL RIGHTS STATUTES.—~~

11           “(1) ~~IN GENERAL.—~~To the extent that the re-  
 12       quirements of title VI of the Civil Rights Act of  
 13       1964 (42 U.S.C. 2000d et seq.) or of title VIII of  
 14       the Civil Rights Act of 1968 (42 U.S.C. 3601 et  
 15       seq.) apply to assistance provided under this title,  
 16       nothing in the requirements concerning discrimina-  
 17       tion on the basis of race shall be construed to pre-  
 18       vent the provision of assistance under this title—

19           “(A) to the Department of Hawaiian  
 20       Home Lands on the basis that the Department  
 21       served Native Hawaiians; or

22           “(B) to an eligible family on the basis that  
 23       the family is a Native Hawaiian family.

24       “(2) ~~CIVIL RIGHTS.—~~Program eligibility under  
 25       this title may be restricted to Native Hawaiians.

1       Subject to the preceding sentence, no person may be  
 2       discriminated against on the basis of race, color, na-  
 3       tional origin, religion, sex, familial status, or dis-  
 4       ability.

5       “(e) USE OF NONPROFIT ORGANIZATIONS.—As a  
 6       condition of receiving grant amounts under this title, the  
 7       Department of Hawaiian Home Lands shall, to the extent  
 8       practicable, provide for private nonprofit organizations ex-  
 9       perienced in the planning and development of affordable  
 10      housing for Native Hawaiians to carry out affordable  
 11      housing activities with those grant amounts.

12      **“SEC. 804. REVIEW OF PLANS.**

13      “(a) REVIEW AND NOTICE.—

14          “(1) REVIEW.—

15              “(A) IN GENERAL.—The Secretary shall  
 16              conduct a review of a housing plan submitted to  
 17              the Secretary under section 803 to ensure that  
 18              the plan complies with the requirements of that  
 19              section.

20              “(B) LIMITATION.—The Secretary shall  
 21              have the discretion to review a plan referred to  
 22              in subparagraph (A) only to the extent that the  
 23              Secretary considers that the review is necessary.

24          “(2) NOTICE.—

1           “(A) IN GENERAL.—Not later than 60  
 2           days after receiving a plan under section 803,  
 3           the Secretary shall notify the Director of the  
 4           Department of Hawaiian Home Lands whether  
 5           the plan complies with the requirements under  
 6           that section.

7           “(B) EFFECT OF FAILURE OF SECRETARY  
 8           TO TAKE ACTION.—For purposes of this title, if  
 9           the Secretary does not notify the Director, as  
 10          required under this subsection and subsection  
 11          (b), upon the expiration of the 60-day period  
 12          described in subparagraph (A)—

13                 “(i) the plan shall be considered to  
 14                 have been determined to comply with the  
 15                 requirements under section 803; and

16                 “(ii) the Director shall be considered  
 17                 to have been notified of compliance.

18          “(b) NOTICE OF REASONS FOR DETERMINATION OF  
 19          NONCOMPLIANCE.—If the Secretary determines that a  
 20          plan submitted under section 803 does not comply with  
 21          the requirements of that section, the Secretary shall speci-  
 22          fy in the notice under subsection (a)—

23                 “(1) the reasons for noncompliance; and

24                 “(2) any modifications necessary for the plan to  
 25          meet the requirements of section 803.

1       ~~“(c) REVIEW.—~~

2               ~~“(1) IN GENERAL.—~~After the Director of the  
3       Department of Hawaiian Home Lands submits a  
4       housing plan under section 803, or any amendment  
5       or modification to the plan to the Secretary, to the  
6       extent that the Secretary considers such action to be  
7       necessary to make a determination under this sub-  
8       section, the Secretary shall review the plan (includ-  
9       ing any amendments or modifications thereto) to de-  
10      termine whether the contents of the plan—

11               ~~“(A) set forth the information required by~~  
12               ~~section 803 to be contained in the housing plan;~~

13               ~~“(B) are consistent with information and~~  
14               ~~data available to the Secretary; and~~

15               ~~“(C) are not prohibited by or inconsistent~~  
16               ~~with any provision of this Act or any other ap-~~  
17               ~~plicable law.~~

18               ~~“(2) INCOMPLETE PLANS.—~~If the Secretary de-  
19      termines under this subsection that any of the ap-  
20      propriate certifications required under section  
21      803(c)(2)(E) are not included in a plan, the plan  
22      shall be considered to be incomplete.

23      ~~“(d) UPDATES TO PLAN.—~~

24               ~~“(1) IN GENERAL.—~~Subject to paragraph (2),  
25      after a plan under section 803 has been submitted

for a fiscal year, the head of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

~~“(2) COMPLETE PLANS.—~~The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

~~“(e) EFFECTIVE DATE.—~~This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2000.

**~~“SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.~~**

~~“(a) PROGRAM INCOME.—~~

~~“(1) AUTHORITY TO RETAIN.—~~The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

1           “(A) that income was realized after the ini-  
 2           tial disbursement of the grant amounts received  
 3           by the Department; and

4           “(B) the Director agrees to use the pro-  
 5           gram income for affordable housing activities in  
 6           accordance with the provisions of this title.

7           ~~“(2) PROHIBITION OF REDUCTION OF GRANT.—~~  
 8           The Secretary may not reduce the grant amount for  
 9           the Department of Hawaiian Home Lands based  
 10          solely on—

11          ~~“(A) whether the Department retains pro-~~  
 12          ~~gram income under paragraph (1); or~~

13          ~~“(B) the amount of any such program in-~~  
 14          ~~come retained.~~

15          ~~“(3) EXCLUSION OF AMOUNTS.—The Secretary~~  
 16          ~~may, by regulation, exclude from consideration as~~  
 17          ~~program income any amounts determined to be so~~  
 18          ~~small that compliance with the requirements of this~~  
 19          ~~subsection would create an unreasonable administra-~~  
 20          ~~tive burden on the Department.~~

21          ~~“(b) LABOR STANDARDS.—~~

22          ~~“(1) IN GENERAL.—Any contract or agreement~~  
 23          ~~for assistance, sale, or lease pursuant to this title~~  
 24          ~~shall contain—~~

1           “(A) a provision requiring that an amount  
 2           not less than the wages prevailing in the local-  
 3           ity, as determined or adopted (subsequent to a  
 4           determination under applicable State or local  
 5           law) by the Secretary, shall be paid to all archi-  
 6           tects, technical engineers, draftsmen, techni-  
 7           cians employed in the development and all  
 8           maintenance, and laborers and mechanics em-  
 9           ployed in the operation, of the affordable hous-  
 10          ing project involved; and

11          “(B) a provision that an amount not less  
 12          than the wages prevailing in the locality, as pre-  
 13          determined by the Secretary of Labor pursuant  
 14          to the Act commonly known as the ‘Davis-  
 15          Bacon Act’ (46 Stat. 1494, chapter 411; 40  
 16          U.S.C. 276a et seq.) shall be paid to all labor-  
 17          ers and mechanics employed in the development  
 18          of the affordable housing involved.

19          “(2) EXCEPTIONS.—Paragraph (1) and provi-  
 20          sions relating to wages required under paragraph (1)  
 21          in any contract or agreement for assistance, sale, or  
 22          lease under this title, shall not apply to any indi-  
 23          vidual who performs the services for which the indi-  
 24          vidual volunteered and who is not otherwise em-  
 25          ployed at any time in the construction work and re-



1        received no compensation or is paid expenses, reason-  
 2        able benefits, or a nominal fee for those services.

3        **“SEC. 806. ENVIRONMENTAL REVIEW.**

4        **“(a) IN GENERAL.—**

5                **“(1) RELEASE OF FUNDS.—**

6                        **“(A) IN GENERAL.—**The Secretary may  
 7        carry out the alternative environmental protec-  
 8        tion procedures described in subparagraph (B)  
 9        in order to ensure—

10                      **“(i) that the policies of the National**  
 11                      Environmental Policy Act of 1969 (42  
 12                      U.S.C. 4321 et seq.) and other provisions  
 13                      of law that further the purposes of such  
 14                      Act (as specified in regulations issued by  
 15                      the Secretary) are most effectively imple-  
 16                      mented in connection with the expenditure  
 17                      of grant amounts provided under this title;  
 18                      and

19                      **“(ii) to the public undiminished pro-**  
 20                      tection of the environment.

21                      **“(B) ALTERNATIVE ENVIRONMENTAL PRO-**  
 22                      tection procedure.—In lieu of applying en-  
 23                      vironmental protection procedures otherwise ap-  
 24                      plicable, the Secretary may by regulation pro-  
 25                      vide for the release of funds for specific projects

to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

~~“(2) REGULATIONS.—~~

~~“(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.~~

~~“(B) CONTENTS.—The regulations issued under this paragraph shall—~~

~~“(i) provide for the monitoring of the environmental reviews performed under this section;~~

~~“(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and~~

~~“(iii) provide for the suspension or termination of the assumption of responsibilities under this section.~~

1           “(3) EFFECT ON ASSUMED RESPONSIBILITY.—

2           The duty of the Secretary under paragraph (2)(B)  
3           shall not be construed to limit or reduce any respon-  
4           sibility assumed by the Department of Hawaiian  
5           Home Lands for grant amounts with respect to any  
6           specific release of funds.

7           “(b) PROCEDURE.—

8           “(1) IN GENERAL.—The Secretary shall author-  
9           ize the release of funds subject to the procedures  
10          under this section only if, not less than 15 days be-  
11          fore that approval and before any commitment of  
12          funds to such projects, the Director of the Depart-  
13          ment of Hawaiian Home Lands submits to the Sec-  
14          retary a request for such release accompanied by a  
15          certification that meets the requirements of sub-  
16          section (c).

17          “(2) EFFECT OF APPROVAL.—The approval of  
18          the Secretary of a certification described in para-  
19          graph (1) shall be deemed to satisfy the responsibil-  
20          ities of the Secretary under the National Environ-  
21          mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
22          and such other provisions of law as the regulations  
23          of the Secretary specify to the extent that those re-  
24          sponsibilities relate to the releases of funds for  
25          projects that are covered by that certification.

1       “(c) CERTIFICATION.—A certification under the pro-  
2 cedures under this section shall—

3           “(1) be in a form acceptable to the Secretary;

4           “(2) be executed by the Director of the Depart-  
5 ment of Hawaiian Home Lands;

6           “(3) specify that the Department of Hawaiian  
7 Home Lands has fully carried out its responsibilities  
8 as described under subsection (a); and

9           “(4) specify that the Director—

10           “(A) consents to assume the status of a re-  
11 sponsible Federal official under the National  
12 Environmental Policy Act of 1969 (42 U.S.C.  
13 4321 et seq.) and each provision of law speci-  
14 fied in regulations issued by the Secretary to  
15 the extent that those laws apply by reason of  
16 subsection (a); and

17           “(B) is authorized and consents on behalf  
18 of the Department of Hawaiian Home Lands  
19 and the Director to accept the jurisdiction of  
20 the Federal courts for the purpose of enforce-  
21 ment of the responsibilities of the Director of  
22 the Department of Hawaiian Home Lands as  
23 such an official.

1 **~~“SEC. 807. REGULATIONS.~~**

2       ~~“The Secretary shall issue final regulations necessary~~  
 3 ~~to carry out this title not later than October 1, 1999.~~

4 **~~“SEC. 808. EFFECTIVE DATE.~~**

5       ~~“Except as otherwise expressly provided in this title,~~  
 6 ~~this title shall take effect on October 1, 1999.~~

7 **~~“SEC. 809. AFFORDABLE HOUSING ACTIVITIES.~~**

8       ~~“(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMI-~~  
 9 ~~LIES.—~~

10           ~~“(1) PRIMARY OBJECTIVE.—The national objec-~~  
 11 ~~tives of this title are—~~

12               ~~“(A) to assist and promote affordable~~  
 13 ~~housing activities to develop, maintain, and op-~~  
 14 ~~erate affordable housing in safe and healthy en-~~  
 15 ~~vironments for occupancy by low-income Native~~  
 16 ~~Hawaiian families;~~

17               ~~“(B) to ensure better access to private~~  
 18 ~~mortgage markets and to promote self-suffi-~~  
 19 ~~ciency of low-income Native Hawaiian families;~~

20               ~~“(C) to coordinate activities to provide~~  
 21 ~~housing for low-income Native Hawaiian fami-~~  
 22 ~~lies with Federal, State and local activities to~~  
 23 ~~further economic and community development;~~

24               ~~“(D) to plan for and integrate infrastruc-~~  
 25 ~~ture resources on the Hawaiian Home Lands~~  
 26 ~~with housing development; and~~

1                   “(E) to—

2                   “(i) promote the development of pri-  
3                   vate capital markets; and

4                   “(ii) allow the markets referred to in  
5                   clause (i) to operate and grow, thereby  
6                   benefiting Native Hawaiian communities.

7                   “(2) ELIGIBLE FAMILIES.—

8                   “(A) IN GENERAL.—Except as provided  
9                   under subparagraph (B), assistance for eligible  
10                  housing activities under this title shall be lim-  
11                  ited to low-income Native Hawaiian families.

12                  “(B) EXCEPTION TO LOW-INCOME RE-  
13                  QUIREMENT.—

14                  “(i) IN GENERAL.—The Director may  
15                  provide assistance for homeownership ac-  
16                  tivities under—

17                         “(I) section 810(b);

18                         “(II) model activities under sec-  
19                         tion 810(f); or

20                         “(III) loan guarantee activities  
21                         under section 184A of the Housing  
22                         and Community Development Act of  
23                         1992 to Native Hawaiian families who  
24                         are not low-income families; to the ex-  
25                         tent that the Secretary approves the

1 activities under that section to ad-  
 2 dress a need for housing for those  
 3 families that cannot be reasonably  
 4 met without that assistance.

5 “(ii) LIMITATIONS.—The Secretary  
 6 shall establish limitations on the amount of  
 7 assistance that may be provided under this  
 8 title for activities for families that are not  
 9 low-income families.

10 “(C) OTHER FAMILIES.—Notwithstanding  
 11 paragraph (1), the Director may provide hous-  
 12 ing or housing assistance provided through af-  
 13 fordable housing activities assisted with grant  
 14 amounts under this title to a family that is not  
 15 composed of Native Hawaiians if—

16 “(i) the Department determines that  
 17 the presence of the family in the housing  
 18 involved is essential to the well-being of  
 19 Native Hawaiian families; and

20 “(ii) the need for housing for the fam-  
 21 ily cannot be reasonably met without the  
 22 assistance.

23 “(D) PREFERENCE.—

24 “(i) IN GENERAL.—A housing plan  
 25 submitted under section 803 may authorize

1 a preference, for housing or housing assist-  
 2 ance provided through affordable housing  
 3 activities assisted with grant amounts pro-  
 4 vided under this title to be provided, to the  
 5 extent practicable, to families that are eli-  
 6 gible to reside on the Hawaiian Home  
 7 Lands.

8 “(ii) APPLICATION.—In any case in  
 9 which a housing plan provides for pref-  
 10 erence described in clause (i), the Director  
 11 shall ensure that housing activities that are  
 12 assisted with grant amounts under this  
 13 title are subject to that preference.

14 “(E) USE OF NONPROFIT ORGANIZA-  
 15 TIONS.—As a condition of receiving grant  
 16 amounts under this title, the Department of  
 17 Hawaiian Home Lands, shall to the extent  
 18 practicable, provide for private nonprofit orga-  
 19 nizations experienced in the planning and devel-  
 20 opment of affordable housing for Native Hawai-  
 21 ians to carry out affordable housing activities  
 22 with those grant amounts.



1 **~~“SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.~~**

2 ~~“(a) IN GENERAL.—Affordable housing activities~~  
 3 ~~under this section are activities conducted in accordance~~  
 4 ~~with the requirements of section 811 to—~~

5 ~~“(1) develop or to support affordable housing~~  
 6 ~~for rental or homeownership; or~~

7 ~~“(2) provide housing services with respect to af-~~  
 8 ~~fordable housing; through the activities described in~~  
 9 ~~subsection (b).~~

10 ~~“(b) ACTIVITIES.—The activities described in this~~  
 11 ~~subsection are the following:~~

12 ~~“(1) DEVELOPMENT.—The acquisition, new~~  
 13 ~~construction, reconstruction, or moderate or sub-~~  
 14 ~~stantial rehabilitation of affordable housing; which~~  
 15 ~~may include—~~

16 ~~“(A) real property acquisition;~~

17 ~~“(B) site improvement;~~

18 ~~“(C) the development of utilities and util-~~  
 19 ~~ity services;~~

20 ~~“(D) conversion;~~

21 ~~“(E) demolition;~~

22 ~~“(F) financing;~~

23 ~~“(G) administration and planning; and~~

24 ~~“(H) other related activities.~~

1           ~~“(2) HOUSING SERVICES.—The provision of~~  
2           housing-related services for affordable housing;  
3           including—

4                   ~~“(A) housing counseling in connection with~~  
5                   rental or homeownership assistance;

6                   ~~“(B) the establishment and support of~~  
7                   resident organizations and resident manage-  
8                   ment corporations;

9                   ~~“(C) energy auditing;~~

10                  ~~“(D) activities related to the provisions of~~  
11                  self-sufficiency and other services; and

12                  ~~“(E) other services related to assisting~~  
13                  owners, tenants, contractors, and other entities  
14                  participating or seeking to participate in other  
15                  housing activities assisted pursuant to this sec-  
16                  tion.

17           ~~“(3) HOUSING MANAGEMENT SERVICES.—The~~  
18           provision of management services for affordable  
19           housing, including—

20                   ~~“(A) the preparation of work specifica-~~  
21                   tions;

22                   ~~“(B) loan processing;~~

23                   ~~“(C) inspections;~~

24                   ~~“(D) tenant selection;~~

1           ~~“(E) management of tenant-based rental~~  
 2           ~~assistance; and~~

3           ~~“(F) management of affordable housing~~  
 4           ~~projects.~~

5           ~~“(4) CRIME PREVENTION AND SAFETY ACTIVI-~~  
 6           ~~TIES.—The provision of safety, security, and law en-~~  
 7           ~~forcement measures and activities appropriate to~~  
 8           ~~protect residents of affordable housing from crime.~~

9           ~~“(5) MODEL ACTIVITIES.—Housing activities~~  
 10          ~~under model programs that are—~~

11           ~~“(A) designed to carry out the purposes of~~  
 12           ~~this title; and~~

13           ~~“(B) specifically approved by the Secretary~~  
 14           ~~as appropriate for the purpose referred to in~~  
 15           ~~subparagraph (A).~~

16 **~~“SEC. 811. PROGRAM REQUIREMENTS.~~**

17          ~~“(a) RENTS.—~~

18           ~~“(1) ESTABLISHMENT.—Subject to paragraph~~  
 19           ~~(2), as a condition to receiving grant amounts under~~  
 20           ~~this title, the Director shall develop written policies~~  
 21           ~~governing rents and homebuyer payments charged~~  
 22           ~~for dwelling units assisted under this title, including~~  
 23           ~~methods by which such rents and homebuyer pay-~~  
 24           ~~ments are determined.~~

1           “(2) MAXIMUM RENT.—In the case of any low-  
 2           income family residing in a dwelling unit assisted  
 3           with grant amounts under this title, the monthly  
 4           rent or homebuyer payment (as applicable) for that  
 5           dwelling unit may not exceed 30 percent of the  
 6           monthly adjusted income of that family.

7           “(b) MAINTENANCE AND EFFICIENT OPERATION.—

8           “(1) IN GENERAL.—The Director shall, using  
 9           amounts of any grants received under this title, re-  
 10          serve and use for operating under section 810 such  
 11          amounts as may be necessary to provide for the con-  
 12          tinued maintenance and efficient operation of such  
 13          housing.

14          “(2) DISPOSAL OF CERTAIN HOUSING.—This  
 15          subsection may not be construed to prevent the Di-  
 16          rector, or any entity funded by the Department,  
 17          from demolishing or disposing of housing, pursuant  
 18          to regulations established by the Secretary.

19          “(c) INSURANCE COVERAGE.—As a condition to re-  
 20          ceiving grant amounts under this title, the Director shall  
 21          require adequate insurance coverage for housing units that  
 22          are owned or operated or assisted with grant amounts pro-  
 23          vided under this title.

24          “(d) ELIGIBILITY FOR ADMISSION.—As a condition  
 25          to receiving grant amounts under this title, the Director

1 shall develop written policies governing the eligibility, ad-  
 2 mission, and occupancy of families for housing assisted  
 3 with grant amounts provided under this title.

4 “(e) MANAGEMENT AND MAINTENANCE.—As a con-  
 5 dition to receiving grant amounts under this title, the Di-  
 6 rector shall develop policies governing the management  
 7 and maintenance of housing assisted with grant amounts  
 8 under this title.

9 **“SEC. 812. TYPES OF INVESTMENTS.**

10 “(a) IN GENERAL.—Subject to section 811 and an  
 11 applicable housing plan approved under section 803, the  
 12 Director shall have—

13 “(1) the discretion to use grant amounts for af-  
 14 fordable housing activities through the use of—

15 “(A) equity investments;

16 “(B) interest-bearing loans or advances;

17 “(C) noninterest-bearing loans or ad-  
 18 vances;

19 “(D) interest subsidies;

20 “(E) the leveraging of private investments;

21 or

22 “(F) any other form of assistance that the  
 23 Secretary determines to be consistent with the  
 24 purposes of this title; and

1           “(2) the right to establish the terms of assist-  
 2           ance provided with funds referred to in paragraph  
 3           (1).  
 4           “(b) INVESTMENTS.—The Director may invest grant

5           amounts for the purposes of carrying out affordable hous-  
 6           ing activities in investment securities and other obliga-  
 7           tions, as approved by the Secretary.

8           **“SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TAR-**  
 9           **GETING.**

10          “(a) IN GENERAL.—Housing shall qualify for afford-  
 11          able housing for purposes of this title only if—

12               “(1) each dwelling unit in the housing—

13                       “(A) in the case of rental housing, is made  
 14                       available for occupancy only by a family that is  
 15                       a low-income family at the time of the initial  
 16                       occupancy of that family of that unit; and

17                       “(B) in the case of housing for home-  
 18                       ownership, is made available for purchase only  
 19                       by a family that is a low-income family at the  
 20                       time of purchase; and

21               “(2) each dwelling unit in the housing will re-  
 22               main affordable, according to binding commitments  
 23               satisfactory to the Secretary, for—

24                       “(A) the remaining useful life of the prop-  
 25                       erty (as determined by the Secretary) without

1           regard to the term of the mortgage or to trans-  
2           fer of ownership; or

3           ~~“(B) such other period as the Secretary~~  
4           ~~determines is the longest feasible period of time~~  
5           ~~consistent with sound economics and the pur-~~  
6           ~~poses of this title; except upon a foreclosure by~~  
7           ~~a lender (or upon other transfer in lieu of fore-~~  
8           ~~closure) if that action—~~

9           ~~“(i) recognizes any contractual or~~  
10          ~~legal rights of any public agency; nonprofit~~  
11          ~~sponsor; or other person or entity to take~~  
12          ~~an action that would—~~

13          ~~“(I) avoid termination of low-in-~~  
14          ~~come affordability; in the case of fore-~~  
15          ~~closure; or~~

16          ~~“(H) transfer ownership in lieu~~  
17          ~~of foreclosure; and~~

18          ~~“(ii) is not for the purpose of avoiding~~  
19          ~~low-income affordability restrictions; as de-~~  
20          ~~termined by the Secretary.~~

21          ~~“(b) EXCEPTION.—Notwithstanding subsection (a);~~  
22          ~~housing assisted pursuant to section 809(a)(2)(B) shall be~~  
23          ~~considered affordable housing for purposes of this title.~~

1 **“SEC. 814. LEASE REQUIREMENTS AND TENANT SELEC-**  
2 **TION.**

3 “(a) **LEASES.**—Except to the extent otherwise pro-  
4 vided by or inconsistent with the laws of the State of Ha-  
5 waii, in renting dwelling units in affordable housing as-  
6 sisted with grant amounts provided under this title, the  
7 Director, owner, or manager shall use leases that—

8 “(1) do not contain unreasonable terms and  
9 conditions;

10 “(2) require the Director, owner, or manager to  
11 maintain the housing in compliance with applicable  
12 housing codes and quality standards;

13 “(3) require the Director, owner, or manager to  
14 give adequate written notice of termination of the  
15 lease, which shall be the period of time required  
16 under applicable State or local law;

17 “(4) specify that, with respect to any notice of  
18 eviction or termination, notwithstanding any State  
19 or local law, a resident shall be informed of the op-  
20 portunity, before any hearing or trial, to examine  
21 any relevant documents, record, or regulations di-  
22 rectly related to the eviction or termination;

23 “(5) require that the Director, owner, or man-  
24 ager may not terminate the tenancy, during the  
25 term of the lease, except for serious or repeated vio-  
26 lation of the terms and conditions of the lease, viola-



1       tion of applicable Federal, State, or local law, or for  
2       other good cause; and

3           ~~“(6) provide that the Director, owner, and man-~~  
4       ~~ager may terminate the tenancy of a resident for~~  
5       ~~any activity, engaged in by the resident, any member~~  
6       ~~of the household of the resident, or any guest or~~  
7       ~~other person under the control of the resident,~~  
8       ~~that—~~

9           ~~“(A) threatens the health or safety of, or~~  
10       ~~right to peaceful enjoyment of the premises by,~~  
11       ~~other residents or employees of the Department,~~  
12       ~~owner, or manager;~~

13          ~~“(B) threatens the health or safety of, or~~  
14       ~~right to peaceful enjoyment of their premises~~  
15       ~~by, persons residing in the immediate vicinity of~~  
16       ~~the premises; or~~

17          ~~“(C) is criminal activity (including drug-re-~~  
18       ~~lated criminal activity) on or off the premises.~~

19       ~~“(b) TENANT OR HOMEBUYER SELECTION.—As a~~  
20       ~~condition to receiving grant amounts under this title, the~~  
21       ~~Director shall adopt and use written tenant and home-~~  
22       ~~buyer selection policies and criteria that—~~

23          ~~“(1) are consistent with the purpose of pro-~~  
24       ~~viding housing for low-income families;~~

1           “(2) are reasonably related to program eligi-  
 2           bility and the ability of the applicant to perform the  
 3           obligations of the lease; and

4           “(3) provide for—

5                   “(A) the selection of tenants and home-  
 6                   buyers from a written waiting list in accordance  
 7                   with the policies and goals set forth in an appli-  
 8                   cable housing plan approved under section 803;  
 9                   and

10                   “(B) the prompt notification in writing of  
 11                   any rejected applicant of the grounds for that  
 12                   rejection.

13   **“SEC. 815. REPAYMENT.**

14           “‘If the Department of Hawaiian Home Lands uses  
 15   grant amounts to provide affordable housing under activi-  
 16   ties under this title and, at any time during the useful  
 17   life of the housing, the housing does not comply with the  
 18   requirement under section 813(a)(2), the Secretary  
 19   shall—

20                   “(1) reduce future grant payments on behalf of  
 21                   the Department by an amount equal to the grant  
 22                   amounts used for that housing (under the authority  
 23                   of section 819(a)(2)); or

24                   “(2) require repayment to the Secretary of any  
 25                   amount equal to those grant amounts.

1 **~~“SEC. 816. ANNUAL ALLOCATION.~~**

2       ~~“For each fiscal year, the Secretary shall allocate any~~  
 3 ~~amounts made available for assistance under this title for~~  
 4 ~~the fiscal year, in accordance with the formula established~~  
 5 ~~pursuant to section 817 to the Department of Hawaiian~~  
 6 ~~Home Lands if the Department complies with the require-~~  
 7 ~~ments under this title for a grant under this title.~~

8 **~~“SEC. 817. ALLOCATION FORMULA.~~**

9       ~~“(a) ESTABLISHMENT.—The Secretary shall, by reg-~~  
 10 ~~ulation issued not later than the expiration of the 6-month~~  
 11 ~~period beginning on the date of enactment of the Native~~  
 12 ~~American Housing Assistance and Self-Determination~~  
 13 ~~Amendments of 1999, in the manner provided under sec-~~  
 14 ~~tion 807, establish a formula to provide for the allocation~~  
 15 ~~of amounts available for a fiscal year for block grants~~  
 16 ~~under this title in accordance with the requirements of this~~  
 17 ~~section.~~

18       ~~“(b) FACTORS FOR DETERMINATION OF NEED.—~~  
 19 ~~The formula under subsection (a) shall be based on factors~~  
 20 ~~that reflect the needs for assistance for affordable housing~~  
 21 ~~activities, including—~~

22               ~~“(1) the number of low-income dwelling units~~  
 23               ~~owned or operated at the time pursuant to a con-~~  
 24               ~~tract between the Director and the Secretary;~~

1           ~~“(2) the extent of poverty and economic distress~~  
 2           ~~and the number of Native Hawaiian families eligible~~  
 3           ~~to reside on the Hawaiian Home Lands; and~~

4           ~~“(3) any other objectively measurable condi-~~  
 5           ~~tions that the Secretary and the Director may speci-~~  
 6           ~~fy.~~

7           ~~“(c) OTHER FACTORS FOR CONSIDERATION.—In es-~~  
 8           ~~tablishing the formula under subsection (a), the Secretary~~  
 9           ~~shall consider the relative administrative capacities of the~~  
 10          ~~Department of Hawaiian Home Lands and other chal-~~  
 11          ~~lenges faced by the Department, including—~~

12           ~~“(1) geographic distribution within Hawaiian~~  
 13          ~~Home Lands; and~~

14           ~~“(2) technical capacity.~~

15          ~~“(d) EFFECTIVE DATE.—This section shall take ef-~~  
 16          ~~fect on the date of enactment of the Native American~~  
 17          ~~Housing Assistance and Self-Determination Amendments~~  
 18          ~~of 1999.~~

19          ~~**“SEC. 818. REMEDIES FOR NONCOMPLIANCE.**~~

20          ~~“(a) ACTIONS BY SECRETARY AFFECTING GRANT~~  
 21          ~~AMOUNTS.—~~

22           ~~“(1) IN GENERAL.—Except as provided in sub-~~  
 23          ~~section (b), if the Secretary finds after reasonable~~  
 24          ~~notice and opportunity for a hearing that the De-~~  
 25          ~~partment of Hawaiian Home Lands has failed to~~

1       comply substantially with any provision of this title;  
 2       the Secretary shall—

3               “(A) terminate payments under this title  
 4               to the Department;

5               “(B) reduce payments under this title to  
 6               the Department by an amount equal to the  
 7               amount of such payments that were not ex-  
 8               pended in accordance with this title; or

9               “(C) limit the availability of payments  
 10              under this title to programs, projects, or activi-  
 11              ties not affected by such failure to comply.

12              “(2) ACTIONS.—If the Secretary takes an ac-  
 13              tion under subparagraph (A), (B), or (C) of para-  
 14              graph (1), the Secretary shall continue that action  
 15              until the Secretary determines that the failure by  
 16              the Department to comply with the provision has  
 17              been remedied by the Department and the Depart-  
 18              ment is in compliance with that provision.

19              “(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL  
 20              INCAPACITY.—The Secretary may provide technical assist-  
 21              ance for the Department, either directly or indirectly, that  
 22              is designed to increase the capability and capacity of the  
 23              Director of the Department to administer assistance pro-  
 24              vided under this title in compliance with the requirements  
 25              under this title if the Secretary makes a finding under

1 subsection (a), but determines that the failure of the De-  
 2 partment to comply substantially with the provisions of  
 3 this title—

4 “(1) is not a pattern or practice of activities  
 5 constituting willful noncompliance; and

6 “(2) is a result of the limited capability or ca-  
 7 pacity of the Department of Hawaiian Home Lands.

8 “(c) REFERRAL FOR CIVIL ACTION.—

9 “(1) AUTHORITY.—In lieu of, or in addition to,  
 10 any action that the Secretary may take under sub-  
 11 section (a), if the Secretary has reason to believe  
 12 that the Department of Hawaiian Home Lands has  
 13 failed to comply substantially with any provision of  
 14 this title, the Secretary may refer the matter to the  
 15 Attorney General of the United States with a rec-  
 16 ommendation that an appropriate civil action be in-  
 17 stituted.

18 “(2) CIVIL ACTION.—Upon receiving a referral  
 19 under paragraph (1), the Attorney General may  
 20 bring a civil action in any United States district  
 21 court of appropriate jurisdiction for such relief as  
 22 may be appropriate, including an action—

23 “(A) to recover the amount of the assist-  
 24 ance furnished under this title that was not ex-  
 25 pended in accordance with this title; or

1                   “(B) for mandatory or injunctive relief.

2                   “(d) REVIEW.—

3                   “(1) IN GENERAL.—If the Director receives no-  
4                   tice under subsection (a) of the termination, reduc-  
5                   tion, or limitation of payments under this Act, the  
6                   Director—

7                   “(A) may, not later than 60 days after re-  
8                   ceiving such notice, file with the United States  
9                   Court of Appeals for the Ninth Circuit, or in  
10                  the United States Court of Appeals for the Dis-  
11                  trict of Columbia, a petition for review of the  
12                  action of the Secretary; and

13                  “(B) upon the filing of any petition under  
14                  subparagraph (A), shall forthwith transmit cop-  
15                  ies of the petition to the Secretary and the At-  
16                  torney General of the United States, who shall  
17                  represent the Secretary in the litigation.

18                  “(2) PROCEDURE.—

19                  “(A) IN GENERAL.—The Secretary shall  
20                  file in the court a record of the proceeding on  
21                  which the Secretary based the action, as pro-  
22                  vided in section 2112 of title 28, United States  
23                  Code.

24                  “(B) OBJECTIONS.—No objection to the  
25                  action of the Secretary shall be considered by

the court unless the Department has registered  
the objection before the Secretary.

~~“(3) DISPOSITION.—~~

~~“(A) COURT PROCEEDINGS.—~~

~~“(i) JURISDICTION OF COURT.—The  
court shall have jurisdiction to affirm or  
modify the action of the Secretary or to set  
the action aside in whole or in part.~~

~~“(ii) FINDINGS OF FACT.—If sup-  
ported by substantial evidence on the  
record considered as a whole, the findings  
of fact by the Secretary shall be conclusive.~~

~~“(iii) ADDITION.—The court may  
order evidence, in addition to the evidence  
submitted for review under this subsection,  
to be taken by the Secretary, and to be  
made part of the record.~~

~~“(B) SECRETARY.—~~

~~“(i) IN GENERAL.—The Secretary, by  
reason of the additional evidence referred  
to in subparagraph (A) and filed with the  
court—~~

~~“(I) may—~~

~~“(aa) modify the findings of  
fact of the Secretary; or~~



1                   “(bb) make new findings;

2                   and

3                   “(H) shall file—

4                   “(aa) such modified or new  
5                   findings; and

6                   “(bb) the recommendation  
7                   of the Secretary, if any, for the  
8                   modification or setting aside of  
9                   the original action of the Sec-  
10                  retary.

11                  “(ii) FINDINGS.—The findings re-  
12                  ferred to in clause (i)(H)(bb) shall, with  
13                  respect to a question of fact, be considered  
14                  to be conclusive if those findings are—

15                  “(I) supported by substantial evi-  
16                  dence on the record; and

17                  “(II) considered as a whole.

18                  “(4) FINALITY.—

19                  “(A) IN GENERAL.—Except as provided in  
20                  subparagraph (B), upon the filing of the record  
21                  under this subsection with the court—

22                  “(i) the jurisdiction of the court shall  
23                  be exclusive; and

24                  “(ii) the judgment of the court shall  
25                  be final.

1           “(B) REVIEW BY SUPREME COURT.—A  
 2           judgment under subparagraph (A) shall be sub-  
 3           ject to review by the Supreme Court of the  
 4           United States upon writ of certiorari or certifi-  
 5           cation, as provided in section 1254 of title 28,  
 6           United States Code.

7   **“SEC. 819. MONITORING OF COMPLIANCE.**

8           “(a) ENFORCEABLE AGREEMENTS.—

9           “(1) IN GENERAL.—The Director, through  
 10          binding contractual agreements with owners or other  
 11          authorized entities, shall ensure long-term compli-  
 12          ance with the provisions of this title.

13          “(2) MEASURES.—The measures referred to in  
 14          paragraph (1) shall provide for—

15               “(A) to the extent allowable by Federal  
 16               and State law, the enforcement of the provi-  
 17               sions of this title by the Department and the  
 18               Secretary; and

19               “(B) remedies for breach of the provisions  
 20               referred to in paragraph (1).

21          “(b) PERIODIC MONITORING.—

22               “(1) IN GENERAL.—Not less frequently than  
 23               annually, the Director shall review the activities con-  
 24               ducted and housing assisted under this title to as-  
 25               sess compliance with the requirements of this title.

1           “(2) REVIEW.—Each review under paragraph  
2           (1) shall include onsite inspection of housing to de-  
3           termine compliance with applicable requirements.

4           “(3) RESULTS.—The results of each review  
5           under paragraph (1) shall be—

6                       “(A) included in a performance report of  
7                       the Director submitted to the Secretary under  
8                       section 820; and

9                       “(B) made available to the public.

10          “(c) PERFORMANCE MEASURES.—The Secretary  
11          shall establish such performance measures as may be nec-  
12          essary to assess compliance with the requirements of this  
13          title.

14          **“SEC. 820. PERFORMANCE REPORTS.**

15          “(a) REQUIREMENT.—For each fiscal year, the Di-  
16          rector shall—

17                       “(1) review the progress the Department has  
18                       made during that fiscal year in carrying out the  
19                       housing plan submitted by the Department under  
20                       section 803; and

21                       “(2) submit a report to the Secretary (in a  
22                       form acceptable to the Secretary) describing the con-  
23                       clusions of the review.

24          “(b) CONTENT.—Each report submitted under this  
25          section for a fiscal year shall—

1           “(1) describe the use of grant amounts provided  
2           to the Department of Hawaiian Home Lands for  
3           that fiscal year;

4           “(2) assess the relationship of the use referred  
5           to in paragraph (1) to the goals identified in the  
6           housing plan;

7           “(3) indicate the programmatic accomplish-  
8           ments of the Department; and

9           “(4) describe the manner in which the Depart-  
10          ment would change its housing plan submitted under  
11          section 803 as a result of its experiences.

12       “(c) SUBMISSIONS.—The Secretary shall—

13           “(1) establish a date for submission of each re-  
14          port under this section;

15           “(2) review each such report; and

16           “(3) with respect to each such report, make rec-  
17          ommendations as the Secretary considers appro-  
18          priate to carry out the purposes of this title.

19       “(d) PUBLIC AVAILABILITY.—

20           “(1) COMMENTS BY BENEFICIARIES.—In pre-  
21          paring a report under this section, the Director shall  
22          make the report publicly available to the bene-  
23          ficiaries of the Hawaiian Homes Commission Act,  
24          1920 (42 Stat. 108 et seq.) and give a sufficient  
25          amount of time to permit those beneficiaries to com-

1       ment on that report before it is submitted to the  
 2       Secretary (in such manner and at such time as the  
 3       Director may determine).

4           “(2) SUMMARY OF COMMENTS.—The report  
 5       shall include a summary of any comments received  
 6       by the Director from beneficiaries under paragraph  
 7       (1) regarding the program to carry out the housing  
 8       plan.

9       **“SEC. 821. REVIEW AND AUDIT BY SECRETARY.**

10       “(a) ANNUAL REVIEW.—

11           “(1) IN GENERAL.—The Secretary shall, not  
 12       less frequently than on an annual basis, make such  
 13       reviews and audits as may be necessary or appro-  
 14       priate to determine whether—

15           “(A) the Director has—

16           “(i) carried out eligible activities  
 17       under this title in a timely manner;

18           “(ii) carried out and made certifi-  
 19       cations in accordance with the require-  
 20       ments and the primary objectives of this  
 21       title and with other applicable laws; and

22           “(iii) a continuing capacity to carry  
 23       out the eligible activities in a timely man-  
 24       ner;

1           ~~“(B) the Director has complied with the~~  
 2           ~~housing plan submitted by the Director under~~  
 3           ~~section 803; and~~

4           ~~“(C) the performance reports of the De-~~  
 5           ~~partment under section 821 are accurate.~~

6           ~~“(2) ONSITE VISITS.—Each review conducted~~  
 7           ~~under this section shall, to the extent practicable, in-~~  
 8           ~~clude onsite visits by employees of the Department~~  
 9           ~~of Housing and Urban Development.~~

10          ~~“(b) REPORT BY SECRETARY.—The Secretary shall~~  
 11          ~~give the Department of Hawaiian Home Lands not less~~  
 12          ~~than 30 days to review and comment on a report under~~  
 13          ~~this subsection. After taking into consideration the com-~~  
 14          ~~ments of the Department, the Secretary may revise the~~  
 15          ~~report and shall make the comments of the Department~~  
 16          ~~and the report with any revisions, readily available to the~~  
 17          ~~public not later than 30 days after receipt of the com-~~  
 18          ~~ments of the Department.~~

19          ~~“(c) EFFECT OF REVIEWS.—The Secretary may~~  
 20          ~~make appropriate adjustments in the amount of annual~~  
 21          ~~grants under this title in accordance with the findings of~~  
 22          ~~the Secretary pursuant to reviews and audits under this~~  
 23          ~~section. The Secretary may adjust, reduce, or withdraw~~  
 24          ~~grant amounts, or take other action as appropriate in ac-~~  
 25          ~~cordance with the reviews and audits of the Secretary~~

1 under this section, except that grant amounts already ex-  
2 pended on affordable housing activities may not be recap-  
3 tured or deducted from future assistance provided to the  
4 Department of Hawaiian Home Lands.

5 **“SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.**

6 “To the extent that the financial transactions of the  
7 Department of Hawaiian Home Lands involving grant  
8 amounts under this title relate to amounts provided under  
9 this title, those transactions may be audited by the Comp-  
10 troller General of the United States under such regula-  
11 tions as may be prescribed by the Comptroller General.  
12 The Comptroller General of the United States shall have  
13 access to all books, accounts, records, reports, files, and  
14 other papers, things, or property belonging to or in use  
15 by the Department of Hawaiian Home Lands pertaining  
16 to such financial transactions and necessary to facilitate  
17 the audit.

18 **“SEC. 823. REPORTS TO CONGRESS.**

19 “(a) IN GENERAL.—Not later than 90 days after the  
20 conclusion of each fiscal year in which assistance under  
21 this title is made available, the Secretary shall submit to  
22 the Congress a report that contains—

23 “(1) a description of the progress made in ac-  
24 complishing the objectives of this title;

1           ~~“(2) a summary of the use of funds available~~  
 2           ~~under this title during the preceding fiscal year; and~~

3           ~~“(3) a description of the aggregate outstanding~~  
 4           ~~loan guarantees under section 184A of the Housing~~  
 5           ~~and Community Development Act of 1992.~~

6           ~~“(b) RELATED REPORTS.—The Secretary may re-~~  
 7           ~~quire the Director to submit to the Secretary such reports~~  
 8           ~~and other information as may be necessary in order for~~  
 9           ~~the Secretary to prepare the report required under sub-~~  
 10          ~~section (a).~~

11       **~~“SEC. 824. AUTHORIZATION OF APPROPRIATIONS.~~**

12           ~~“There are authorized to be appropriated to the De-~~  
 13           ~~partment of Housing and Urban Development for grants~~  
 14           ~~under this title such sums as may be necessary for each~~  
 15           ~~of fiscal years 2000, 2001, 2002, 2003, and 2004.”.~~

16       **~~SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUS-~~**  
 17                               **~~ING.~~**

18           ~~Subtitle E of title I of the Housing and Community~~  
 19           ~~Development Act of 1992 is amended by inserting after~~  
 20           ~~section 184 (12 U.S.C. 1715z–13a) the following:~~

21       **~~“SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN~~**  
 22                               **~~HOUSING.~~**

23           ~~“(a) DEFINITIONS.—In this section:~~

24           ~~“(1) DEPARTMENT OF HAWAIIAN HOME~~  
 25           ~~LANDS.—The term ‘Department of Hawaiian Home~~



1       Lands’ means the agency or department of the gov-  
 2       ernment of the State of Hawaii that is responsible  
 3       for the administration of the Hawaiian Homes Com-  
 4       mission Act, 1920 (42 Stat. 108 et seq.).

5           “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
 6       tity’ means a Native Hawaiian family, the Depart-  
 7       ment of Hawaiian Home Lands, the Office of Ha-  
 8       waiian Affairs, private nonprofit or for profit organi-  
 9       zations experienced in the planning and development  
 10      of affordable housing for Native Hawaiians.

11          “(3) FAMILY.—The term ‘family’ means 1 or  
 12      more persons maintaining a household, as the Sec-  
 13      retary shall by regulation provide.

14          “(4) GUARANTEE FUND.—The term ‘Guarantee  
 15      Fund’ means the Native Hawaiian Housing Loan  
 16      Guarantee Fund established under subsection (i).

17          “(5) HAWAIIAN HOME LANDS.—The term ‘Ha-  
 18      waiian Home Lands’ means lands that—

19           “(A) have the status of Hawaiian Home  
 20      Lands under section 204 of the Hawaiian  
 21      Homes Commission Act (42 Stat. 110); or

22           “(B) are acquired pursuant to that Act.

23          “(6) NATIVE HAWAIIAN.—The term ‘Native  
 24      Hawaiian’ has the meaning given the term ‘native

1       Hawaiian’ in section 201 of the Hawaiian Homes  
2       Commission Act, 1920 (42 Stat. 108 et seq.).

3           ~~“(7) OFFICE OF HAWAIIAN AFFAIRS.—~~The  
4       term ‘Office of Hawaiian Affairs’ means the entity  
5       of that name established under the constitution of  
6       the State of Hawaii.

7           ~~“(b) AUTHORITY.—~~To provide access to sources of  
8       private financing to Native Hawaiian families who other-  
9       wise could not acquire housing financing because of the  
10      unique legal status of the Hawaiian home lands or as a  
11      result of a lack of access to private financial markets, the  
12      Secretary may guarantee an amount not to exceed 100  
13      percent of the unpaid principal and interest that is due  
14      on an eligible loan under subsection (b).

15          ~~“(c) ELIGIBLE LOANS.—~~Under this section, a loan  
16      is an eligible loan if that loan meets the following require-  
17      ments:

18           ~~“(1) ELIGIBLE BORROWERS.—~~The loan is made  
19      only to a borrower who—

20                   ~~“(A) is a Native Hawaiian family;~~

21                   ~~“(B) the Department of Hawaiian Home~~  
22                   Lands;

23                   ~~“(C) the Office of Hawaiian Affairs; or~~

1           “(D) a private nonprofit organization expe-  
 2           rienced in the planning and development of af-  
 3           fordable housing for Native Hawaiians.

4           “(2) ELIGIBLE HOUSING.—

5           “(A) IN GENERAL.—The loan will be used  
 6           to construct, acquire, or rehabilitate not more  
 7           than 4-family dwellings that are standard hous-  
 8           ing and are located on Hawaiian Home Lands  
 9           for which a housing plan described in subpara-  
 10          graph (B) applies.

11          “(B) HOUSING PLAN.—A housing plan de-  
 12          scribed in this subparagraph is a housing plan  
 13          that—

14               “(i) has been submitted and approved  
 15               by the Secretary under section 803 of the  
 16               Native American Housing Assistance and  
 17               Self-Determination Amendments of 1999;  
 18               and

19               “(ii) provides for the use of loan guar-  
 20               antees under this section to provide afford-  
 21               able homeownership housing on Hawaiian  
 22               Home Lands.

23          “(3) SECURITY.—The loan may be secured by  
 24          any collateral authorized under applicable Federal  
 25          law or State law.

1           “(4) LENDERS.—

2                   “(A) IN GENERAL.—The loan shall be  
3           made only by a lender approved by, and meet-  
4           ing qualifications established by, the Secretary,  
5           including any lender described in subparagraph  
6           (B), except that a loan otherwise insured or  
7           guaranteed by an agency of the Federal Gov-  
8           ernment or made by the Department of Hawai-  
9           ian Home Lands from amounts borrowed from  
10          the United States shall not be eligible for a  
11          guarantee under this section.

12                   “(B) APPROVAL.—The following lenders  
13          shall be considered to be lenders that have been  
14          approved by the Secretary:

15                   “(i) Any mortgagee approved by the  
16          Secretary for participation in the single  
17          family mortgage insurance program under  
18          title II of the National Housing Act (42  
19          U.S.C.A. 1707 et seq.).

20                   “(ii) Any lender that makes housing  
21          loans under chapter 37 of title 38, United  
22          States Code, that are automatically guar-  
23          anteed under section 3702(d) of title 38,  
24          United States Code.

1           ~~“(iii) Any lender approved by the Sec-~~  
 2           ~~retary of Agriculture to make guaranteed~~  
 3           ~~loans for single family housing under the~~  
 4           ~~Housing Act of 1949 (42 U.S.C.A. 1441 et~~  
 5           ~~seq.).~~

6           ~~“(iv) Any other lender that is super-~~  
 7           ~~vised, approved, regulated, or insured by~~  
 8           ~~any agency of the Federal Government.~~

9           ~~“(5) TERMS.—The loan shall—~~

10           ~~“(A) be made for a term not exceeding 30~~  
 11           ~~years;~~

12           ~~“(B) bear interest (exclusive of the guar-~~  
 13           ~~antee fee under subsection (d) and service~~  
 14           ~~charges, if any) at a rate agreed upon by the~~  
 15           ~~borrower and the lender and determined by the~~  
 16           ~~Secretary to be reasonable, but not to exceed~~  
 17           ~~the rate generally charged in the area (as deter-~~  
 18           ~~mined by the Secretary) for home mortgage~~  
 19           ~~loans not guaranteed or insured by any agency~~  
 20           ~~or instrumentality of the Federal Government;~~

21           ~~“(C) involve a principal obligation not~~  
 22           ~~exceeding—~~

23           ~~“(i) 97.75 percent of the appraised~~  
 24           ~~value of the property as of the date the~~  
 25           ~~loan is accepted for guarantee (or 98.75~~

1           percent if the value of the property is  
2           \$50,000 or less); or

3           ~~“(ii) the amount approved by the Sec-~~  
4           ~~retary under this section; and~~

5           ~~“(D) involve a payment on account of the~~  
6           ~~property—~~

7           ~~“(i) in cash or its equivalent; or~~

8           ~~“(ii) through the value of any im-~~  
9           ~~provements to the property made through~~  
10          ~~the skilled or unskilled labor of the bor-~~  
11          ~~rower, as the Secretary shall provide.~~

12       ~~“(d) CERTIFICATE OF GUARANTEE.—~~

13       ~~“(1) APPROVAL PROCESS.—~~

14       ~~“(A) IN GENERAL.—Before the Secretary~~  
15       ~~approves any loan for guarantee under this sec-~~  
16       ~~tion, the lender shall submit the application for~~  
17       ~~the loan to the Secretary for examination.~~

18       ~~“(B) APPROVAL.—If the Secretary ap-~~  
19       ~~proves the application submitted under sub-~~  
20       ~~paragraph (A), the Secretary shall issue a cer-~~  
21       ~~tificate under this subsection as evidence of the~~  
22       ~~loan guarantee approved.~~

23       ~~“(2) STANDARD FOR APPROVAL.—The Sec-~~  
24       ~~retary may approve a loan for guarantee under this~~  
25       ~~section and issue a certificate under this subsection~~

only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

~~“(3) EFFECT.—~~

~~“(A) IN GENERAL.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.~~

~~“(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.~~

~~“(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.~~

~~“(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—~~

~~“(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or~~

~~“(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier,~~

1 partial defenses to the amount payable on the  
 2 guarantee.

3 ~~“(e) GUARANTEE FEE.—~~

4 ~~“(1) IN GENERAL.—The Secretary shall fix and~~  
 5 ~~collect a guarantee fee for the guarantee of a loan~~  
 6 ~~under this section, which may not exceed the amount~~  
 7 ~~equal to 1 percent of the principal obligation of the~~  
 8 ~~loan.~~

9 ~~“(2) PAYMENT.—The fee under this subsection~~  
 10 ~~shall—~~

11 ~~“(A) be paid by the lender at time of~~  
 12 ~~issuance of the guarantee; and~~

13 ~~“(B) be adequate, in the determination of~~  
 14 ~~the Secretary, to cover expenses and probable~~  
 15 ~~losses.~~

16 ~~“(3) DEPOSIT.—The Secretary shall deposit~~  
 17 ~~any fees collected under this subsection in the Na-~~  
 18 ~~tive Hawaiian Housing Loan Guarantee Fund estab-~~  
 19 ~~lished under subsection (j).~~

20 ~~“(f) LIABILITY UNDER GUARANTEE.—The liability~~  
 21 ~~under a guarantee provided under this section shall de-~~  
 22 ~~crease or increase on a pro rata basis according to any~~  
 23 ~~decrease or increase in the amount of the unpaid obliga-~~  
 24 ~~tion under the provisions of the loan agreement involved.~~



1       “(g) TRANSFER AND ASSUMPTION.—Notwith-  
 2 standing any other provision of law, any loan guaranteed  
 3 under this section, including the security given for the  
 4 loan, may be sold or assigned by the lender to any finan-  
 5 cial institution subject to examination and supervision by  
 6 an agency of the Federal Government or of any State or  
 7 the District of Columbia.

8       “(h) DISQUALIFICATION OF LENDERS AND CIVIL  
 9 MONEY PENALTIES.—

10           “(1) IN GENERAL.—

11               “(A) GROUNDS FOR ACTION.—The Sec-  
 12 retary may take action under subparagraph (B)  
 13 if the Secretary determines that any lender or  
 14 holder of a guarantee certificate under sub-  
 15 section (c)—

16               “(i) has failed—

17                       “(I) to maintain adequate ac-  
 18 counting records;

19                       “(II) to service adequately loans  
 20 guaranteed under this section; or

21                       “(III) to exercise proper credit or  
 22 underwriting judgment; or

23               “(ii) has engaged in practices other-  
 24 wise detrimental to the interest of a bor-  
 25 rower or the United States.

1           “(B) ACTIONS.—Upon a determination by  
 2           the Secretary that a holder of a guarantee cer-  
 3           tificate under subsection (c) has failed to carry  
 4           out an activity described in subparagraph (A)(i)  
 5           or has engaged in practices described in sub-  
 6           paragraph (A)(ii), the Secretary may—

7                   “(i) refuse, either temporarily or per-  
 8                   manently, to guarantee any further loans  
 9                   made by such lender or holder;

10                  “(ii) bar such lender or holder from  
 11                  acquiring additional loans guaranteed  
 12                  under this section; and

13                  “(iii) require that such lender or hold-  
 14                  er assume not less than 10 percent of any  
 15                  loss on further loans made or held by the  
 16                  lender or holder that are guaranteed under  
 17                  this section.

18           “(2) CIVIL MONEY PENALTIES FOR INTEN-  
 19           TIONAL VIOLATIONS.—

20           “(A) IN GENERAL.—The Secretary may  
 21           impose a civil monetary penalty on a lender or  
 22           holder of a guarantee certificate under sub-  
 23           section (d) if the Secretary determines that the  
 24           holder or lender has intentionally failed—

1                   “(i) to maintain adequate accounting  
2                   records;

3                   “(ii) to adequately service loans guar-  
4                   anteed under this section; or

5                   “(iii) to exercise proper credit or un-  
6                   derwriting judgment.

7                   “(B) PENALTIES.—A civil monetary pen-  
8                   alty imposed under this paragraph shall be im-  
9                   posed in the manner and be in an amount pro-  
10                  vided under section 536 of the National Hous-  
11                  ing Act (12 U.S.C.A. 1735f-1) with respect to  
12                  mortgagees and lenders under that Act.

13                  “(3) PAYMENT ON LOANS MADE IN GOOD  
14                  FAITH.—Notwithstanding paragraphs (1) and (2), if  
15                  a loan was made in good faith, the Secretary may  
16                  not refuse to pay a lender or holder of a valid guar-  
17                  antee on that loan, without regard to whether the  
18                  lender or holder is barred under this subsection.

19                  “(i) PAYMENT UNDER GUARANTEE.—

20                  “(1) LENDER OPTIONS.—

21                  “(A) IN GENERAL.—

22                  “(i) NOTIFICATION.—If borrower on a  
23                  loan guaranteed under this section defaults  
24                  on the loan, the holder of the guarantee

1 certificate shall provide written notice of  
2 the default to the Secretary.

3 “(ii) PAYMENT.—Upon providing the  
4 notice required under clause (i), the holder  
5 of the guarantee certificate shall be enti-  
6 tled to payment under the guarantee (sub-  
7 ject to the provisions of this section) and  
8 may proceed to obtain payment in 1 of the  
9 following manners:

10 “(I) FORECLOSURE.—

11 “(aa) IN GENERAL.—The  
12 holder of the certificate may ini-  
13 tiate foreclosure proceedings  
14 (after providing written notice of  
15 that action to the Secretary).

16 “(bb) PAYMENT.—Upon a  
17 final order by the court author-  
18 izing foreclosure and submission  
19 to the Secretary of a claim for  
20 payment under the guarantee,  
21 the Secretary shall pay to the  
22 holder of the certificate the pro  
23 rata portion of the amount guar-  
24 anteed (as determined pursuant  
25 to subsection (f)) plus reasonable

1 fees and expenses as approved by  
2 the Secretary.

3 ~~“(cc) SUBROGATION.—~~The  
4 rights of the Secretary shall be  
5 subrogated to the rights of the  
6 holder of the guarantee. The  
7 holder shall assign the obligation  
8 and security to the Secretary.

9 ~~“(H) NO FORECLOSURE.—~~

10 ~~“(aa) IN GENERAL.—~~With-  
11 out seeking foreclosure (or in any  
12 case in which a foreclosure pro-  
13 ceeding initiated under clause (i)  
14 continues for a period in excess  
15 of 1 year), the holder of the  
16 guarantee may submit to the  
17 Secretary a request to assign the  
18 obligation and security interest to  
19 the Secretary in return for pay-  
20 ment of the claim under the  
21 guarantee. The Secretary may  
22 accept assignment of the loan if  
23 the Secretary determines that the  
24 assignment is in the best interest  
25 of the United States.

1                   “(bb) PAYMENT.—Upon as-  
 2                   signment, the Secretary shall pay  
 3                   to the holder of the guarantee  
 4                   the pro rata portion of the  
 5                   amount guaranteed (as deter-  
 6                   mined under subsection (f)).

7                   “(cc) SUBROGATION.—The  
 8                   rights of the Secretary shall be  
 9                   subrogated to the rights of the  
 10                  holder of the guarantee. The  
 11                  holder shall assign the obligation  
 12                  and security to the Secretary.

13                  “(B) REQUIREMENTS.—Before any pay-  
 14                  ment under a guarantee is made under sub-  
 15                  paragraph (A), the holder of the guarantee  
 16                  shall exhaust all reasonable possibilities of col-  
 17                  lection. Upon payment, in whole or in part, to  
 18                  the holder, the note or judgment evidencing the  
 19                  debt shall be assigned to the United States and  
 20                  the holder shall have no further claim against  
 21                  the borrower or the United States. The Sec-  
 22                  retary shall then take such action to collect as  
 23                  the Secretary determines to be appropriate.

24                  “(2) LIMITATIONS ON LIQUIDATION.—

“(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

“(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

~~“(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—~~

~~“(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.~~

~~“(2) CREDITS.—The Guarantee Fund shall be credited with—~~

1           ~~“(A) any amount, claims, notes, mort-~~  
2           ~~gages, contracts, and property acquired by the~~  
3           ~~Secretary under this section, and any collections~~  
4           ~~and proceeds therefrom;~~

5           ~~“(B) any amounts appropriated pursuant~~  
6           ~~to paragraph (7);~~

7           ~~“(C) any guarantee fees collected under~~  
8           ~~subsection (d); and~~

9           ~~“(D) any interest or earnings on amounts~~  
10          ~~invested under paragraph (4).~~

11          ~~“(3) USE.—Amounts in the Guarantee Fund~~  
12          ~~shall be available, to the extent provided in appro-~~  
13          ~~priations Acts, for—~~

14           ~~“(A) fulfilling any obligations of the Sec-~~  
15           ~~retary with respect to loans guaranteed under~~  
16           ~~this section, including the costs (as that term is~~  
17           ~~defined in section 502 of the Federal Credit Re-~~  
18           ~~form Act of 1990 (2 U.S.C. 661a)) of such~~  
19           ~~loans;~~

20           ~~“(B) paying taxes, insurance, prior liens,~~  
21           ~~expenses necessary to make fiscal adjustment in~~  
22           ~~connection with the application and transmittal~~  
23           ~~of collections, and other expenses and advances~~  
24           ~~to protect the Secretary for loans which are~~



1           guaranteed under this section or held by the  
2           Secretary;

3           ~~“(C) acquiring such security property at~~  
4           ~~foreclosure sales or otherwise;~~

5           ~~“(D) paying administrative expenses in~~  
6           ~~connection with this section; and~~

7           ~~“(E) reasonable and necessary costs of re-~~  
8           ~~habilitation and repair to properties that the~~  
9           ~~Secretary holds or owns pursuant to this sec-~~  
10          ~~tion.~~

11          ~~“(4) INVESTMENT.—Any amounts in the Guar-~~  
12          ~~antee Fund determined by the Secretary to be in ex-~~  
13          ~~cess of amounts currently required at the time of the~~  
14          ~~determination to carry out this section may be in-~~  
15          ~~vested in obligations of the United States.~~

16          ~~“(5) LIMITATION ON COMMITMENTS TO GUAR-~~  
17          ~~ANTEE LOANS AND MORTGAGES.—~~

18          ~~“(A) REQUIREMENT OF APPROPRIA-~~  
19          ~~TIONS.—The authority of the Secretary to enter~~  
20          ~~into commitments to guarantee loans under this~~  
21          ~~section shall be effective for any fiscal year to~~  
22          ~~the extent, or in such amounts as, are or have~~  
23          ~~been provided in appropriations Acts, without~~  
24          ~~regard to the fiscal year for which such~~  
25          ~~amounts were appropriated.~~

1           ~~“(B) LIMITATIONS ON COSTS OF GUARAN-~~  
2           ~~TEES.—~~The authority of the Secretary to enter  
3           into commitments to guarantee loans under this  
4           section shall be effective for any fiscal year only  
5           to the extent that amounts in the Guarantee  
6           Fund are or have been made available in appro-  
7           priations Acts to cover the costs (as that term  
8           is defined in section 502 of the Federal Credit  
9           Reform Act of 1990 (2 U.S.C. 661a)) of such  
10          loan guarantees for such fiscal year. Any  
11          amounts appropriated pursuant to this subpara-  
12          graph shall remain available until expended.

13          ~~“(C) LIMITATION ON OUTSTANDING AG-~~  
14          ~~GREGATE PRINCIPAL AMOUNT.—~~Subject to the  
15          limitations in subparagraphs (A) and (B), the  
16          Secretary may enter into commitments to guar-  
17          antee loans under this section for each of fiscal  
18          years 2000, 2001, 2002, 2003, and 2004 with  
19          an aggregate outstanding principal amount not  
20          exceeding \$100,000,000 for each such fiscal  
21          year.

22          ~~“(6) LIABILITIES.—~~All liabilities and obliga-  
23          tions of the assets credited to the Guarantee Fund  
24          under paragraph (2)(A) shall be liabilities and obli-  
25          gations of the Guarantee Fund.

1           ~~“(7) AUTHORIZATION OF APPROPRIATIONS.—~~

2           There are authorized to be appropriated to the  
3           Guarantee Fund to carry out this section such sums  
4           as may be necessary for each of fiscal years 2000;  
5           2001, 2002, 2003, and 2004.

6           ~~“(k) REQUIREMENTS FOR STANDARD HOUSING.—~~

7           ~~“(1) IN GENERAL.—The Secretary shall, by~~  
8           ~~regulation, establish housing safety and quality~~  
9           ~~standards to be applied for use under this section.~~

10          ~~“(2) STANDARDS.—The standards referred to~~  
11          ~~in paragraph (1) shall—~~

12                 ~~“(A) provide sufficient flexibility to permit~~  
13                 ~~the use of various designs and materials in~~  
14                 ~~housing acquired with loans guaranteed under~~  
15                 ~~this section; and~~

16                 ~~“(B) require each dwelling unit in any~~  
17                 ~~housing acquired in the manner described in~~  
18                 ~~subparagraph (A) to—~~

19                         ~~“(i) be decent, safe, sanitary, and~~  
20                         ~~modest in size and design;~~

21                         ~~“(ii) conform with applicable general~~  
22                         ~~construction standards for the region in~~  
23                         ~~which the housing is located;~~

24                         ~~“(iii) contain a plumbing system~~  
25                         ~~that—~~

1                   “(I) uses a properly installed sys-  
2                   tem of piping;

3                   “(II) includes a kitchen sink and  
4                   a partitioned bathroom with lavatory,  
5                   toilet, and bath or shower; and

6                   “(III) uses water supply, plumb-  
7                   ing, and sewage disposal systems that  
8                   conform to any minimum standards  
9                   established by the applicable county or  
10                  State;

11                  “(iv) contain an electrical system  
12                  using wiring and equipment properly in-  
13                  stalled to safely supply electrical energy for  
14                  adequate lighting and for operation of ap-  
15                  pliances that conforms to any appropriate  
16                  county, State, or national code;

17                  “(v) be not less than the size provided  
18                  under the applicable locally adopted stand-  
19                  ards for size of dwelling units; except that  
20                  the Secretary, upon request of the Depart-  
21                  ment of Hawaiian Home Lands may waive  
22                  the size requirements under this para-  
23                  graph; and

24                  “(vi) conform with the energy per-  
25                  formance requirements for new construc-

1           tion established by the Secretary under  
 2           section 526(a) of the National Housing  
 3           Act (~~12 U.S.C.A. 1735f-4~~), unless the Sec-  
 4           retary determines that the requirements  
 5           are not applicable.

6           “(1) **APPLICABILITY OF CIVIL RIGHTS STATUTES.**—

7   To the extent that the requirements of title VI of the Civil  
 8   Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title  
 9   VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et  
 10   seq.) apply to a guarantee provided under this subsection,  
 11   nothing in the requirements concerning discrimination on  
 12   the basis of race shall be construed to prevent the provi-  
 13   sion of the guarantee to an eligible entity on the basis  
 14   that the entity serves Native Hawaiian families or is a Na-  
 15   tive Hawaiian family.”

16   **SECTION 1. SHORT TITLE.**

17           *This Act may be cited as the “Native American Hous-*  
 18   *ing Assistance and Self-Determination Amendments of*  
 19   *1999”.*

20   **SEC. 2. FINDINGS.**

21           *Congress finds that—*

22                   *(1) the United States has undertaken a responsi-*  
 23   *bility to promote the general welfare of the United*  
 24   *States by—*

1           (A) *employing its resources to remedy the*  
2           *unsafe and unsanitary housing conditions and*  
3           *the acute shortage of decent, safe, and sanitary*  
4           *dwellings for families of lower income; and*

5           (B) *developing effective partnerships with*  
6           *governmental and private entities to accomplish*  
7           *the objectives referred to in subparagraph (A);*

8           (2) *the United States has a special responsibility*  
9           *for the welfare of the Native peoples of the United*  
10          *States, including Native Hawaiians;*

11          (3) *pursuant to the provisions of the Hawaiian*  
12          *Homes Commission Act, 1920 (42 Stat. 108 et seq.),*  
13          *the United States set aside 200,000 acres of land in*  
14          *the Federal territory that later became the State of*  
15          *Hawaii in order to establish a homeland for the na-*  
16          *tive people of Hawaii—Native Hawaiians;*

17          (4) *despite the intent of Congress in 1920 to ad-*  
18          *dress the housing needs of Native Hawaiians through*  
19          *the enactment of the Hawaiian Homes Commission*  
20          *Act, 1920 (42 Stat. 108 et seq.), Native Hawaiians el-*  
21          *igible to reside on the Hawaiian home lands have*  
22          *been foreclosed from participating in Federal housing*  
23          *assistance programs available to all other eligible*  
24          *families in the United States;*

1           (5) *although Federal housing assistance pro-*  
 2           *grams have been administered on a racially neutral*  
 3           *basis in the State of Hawaii, Native Hawaiians con-*  
 4           *tinue to have the greatest unmet need for housing and*  
 5           *the highest rates of overcrowding in the United States;*

6           (6) *among the Native American population of*  
 7           *the United States, Native Hawaiians experience the*  
 8           *highest percentage of housing problems in the United*  
 9           *States, as the percentage—*

10           (A) *of housing problems in the Native Ha-*  
 11           *waiian population is 49 percent, as compared*  
 12           *to—*

13                   (i) *44 percent for American Indian*  
 14                   *and Alaska Native households in Indian*  
 15                   *country; and*

16                   (ii) *27 percent for all other households*  
 17                   *in the United States; and*

18           (B) *overcrowding in the Native Hawaiian*  
 19           *population is 36 percent as compared to 3 per-*  
 20           *cent for all other households in the United*  
 21           *States;*

22           (7) *among the Native Hawaiian population, the*  
 23           *needs of Native Hawaiians, as that term is defined in*  
 24           *section 801 of the Native American Housing Assist-*  
 25           *ance and Self-Determination Act of 1996, as added by*

1        *section 3 of this Act, eligible to reside on the Hawai-*  
 2        *ian Home Lands are the most severe, as—*

3                *(A) the percentage of overcrowding in Na-*  
 4                *tive Hawaiian households on the Hawaiian*  
 5                *Home Lands is 36 percent; and*

6                *(B) approximately 13,000 Native Hawai-*  
 7                *ians, which constitute 95 percent of the Native*  
 8                *Hawaiians who are eligible to reside on the Ha-*  
 9                *waiian Home Lands, are in need of housing;*

10              *(8) applying the Department of Housing and*  
 11              *Urban Development guidelines—*

12              *(A) 70.8 percent of Native Hawaiians who*  
 13              *either reside or who are eligible to reside on the*  
 14              *Hawaiian Home Lands have incomes that fall*  
 15              *below the median family income; and*

16              *(B) 50 percent of Native Hawaiians who ei-*  
 17              *ther reside or who are eligible to reside on the*  
 18              *Hawaiian Home Lands have incomes below 30*  
 19              *percent of the median family income;*

20              *(9)  $\frac{1}{3}$  of those Native Hawaiians who are eligi-*  
 21              *ble to reside on the Hawaiian Home Lands pay more*  
 22              *than 30 percent of their income for shelter, and  $\frac{1}{2}$  of*  
 23              *those Native Hawaiians face overcrowding;*

24              *(10) the extraordinarily severe housing needs of*  
 25              *Native Hawaiians demonstrate that Native Hawai-*



1        *ians who either reside on, or are eligible to reside on,*  
2        *Hawaiian Home Lands have been denied equal access*  
3        *to Federal low-income housing assistance programs*  
4        *available to other qualified residents of the United*  
5        *States, and that a more effective means of addressing*  
6        *their housing needs must be authorized;*

7            *(11) consistent with the recommendations of the*  
8        *National Commission on American Indian, Alaska*  
9        *Native, and Native Hawaiian Housing, and in order*  
10       *to address the continuing prevalence of extraor-*  
11       *dinarily severe housing needs among Native Hawai-*  
12       *ians who either reside or are eligible to reside on the*  
13       *Hawaiian Home Lands, Congress finds it necessary*  
14       *to extend the Federal low-income housing assistance*  
15       *available to American Indians and Alaska Natives*  
16       *under the Native American Housing Assistance and*  
17       *Self-Determination Act of 1996 (25 U.S.C. 4101 et*  
18       *seq.) to those Native Hawaiians;*

19            *(12) under the treaty-making power of the United*  
20       *States, Congress had the constitutional authority to*  
21       *confirm a treaty between the United States and the*  
22       *government that represented the Hawaiian people,*  
23       *and from 1826 until 1893, the United States recog-*  
24       *nized the independence of the Kingdom of Hawaii, ex-*  
25       *tended full diplomatic recognition to the Hawaiian*

1       *Government, and entered into treaties and conven-*  
2       *tions with the Hawaiian monarchs to govern com-*  
3       *merce and navigation in 1826, 1842, 1849, 1875, and*  
4       *1887;*

5               *(13) the United States has recognized and re-*  
6       *affirmed that—*

7                       *(A) Native Hawaiians have a cultural, his-*  
8                       *toric, and land-based link to the indigenous peo-*  
9                       *ple who exercised sovereignty over the Hawaiian*  
10                      *Islands, and that group has never relinquished*  
11                      *its claims to sovereignty or its sovereign lands;*

12                      *(B) Congress does not extend services to Na-*  
13                      *tive Hawaiians because of their race, but because*  
14                      *of their unique status as the indigenous people of*  
15                      *a once sovereign nation as to whom the United*  
16                      *States has established a trust relationship;*

17                      *(C) Congress has also delegated broad au-*  
18                      *thority to administer a portion of the Federal*  
19                      *trust responsibility to the State of Hawaii;*

20                      *(D) the political status of Native Hawai-*  
21                      *ians is comparable to that of American Indians*  
22                      *and Alaska Natives; and*

23                      *(E) the aboriginal, indigenous people of the*  
24                      *United States have—*

1                   (i) a continuing right to autonomy in  
2                   their internal affairs; and

3                   (ii) an ongoing right of self-determina-  
4                   tion and self-governance that has never been  
5                   extinguished;

6                   (14) the political relationship between the United  
7                   States and the Native Hawaiian people has been rec-  
8                   ognized and reaffirmed by the United States as evi-  
9                   denced by the inclusion of Native Hawaiians in—

10                   (A) the Native American Programs Act of  
11                   1974 (42 U.S.C. 2291 et seq.);

12                   (B) the American Indian Religious Free-  
13                   dom Act (42 U.S.C. 1996 et seq.);

14                   (C) the National Museum of the American  
15                   Indian Act (20 U.S.C. 80q et seq.);

16                   (D) the Native American Graves Protection  
17                   and Repatriation Act (25 U.S.C. 3001 et seq.);

18                   (E) the National Historic Preservation Act  
19                   (16 U.S.C. 470 et seq.);

20                   (F) the Native American Languages Act of  
21                   1992 (106 Stat. 3434);

22                   (G) the American Indian, Alaska Native  
23                   and Native Hawaiian Culture and Arts Develop-  
24                   ment Act (20 U.S.C. 4401 et seq.);

1                   (H) *the Job Training Partnership Act* (29  
2                   *U.S.C. 1501 et seq.*); and

3                   (I) *the Older Americans Act of 1965* (42  
4                   *U.S.C. 3001 et seq.*); and

5                   (15) *in the area of housing, the United States*  
6                   *has recognized and reaffirmed the political relation-*  
7                   *ship with the Native Hawaiian people through—*

8                   (A) *the enactment of the Hawaiian Homes*  
9                   *Commission Act, 1920 (42 Stat. 108 et seq.),*  
10                  *which set aside approximately 200,000 acres of*  
11                  *public lands that became known as Hawaiian*  
12                  *Home Lands in the Territory of Hawaii that*  
13                  *had been ceded to the United States for home-*  
14                  *steading by Native Hawaiians in order to reha-*  
15                  *bilitate a landless and dying people;*

16                  (B) *the enactment of the Act entitled “An*  
17                  *Act to provide for the admission of the State of*  
18                  *Hawaii into the Union”, approved March 18,*  
19                  *1959 (73 Stat. 4)—*

20                       (i) *by ceding to the State of Hawaii*  
21                       *title to the public lands formerly held by the*  
22                       *United States, and mandating that those*  
23                       *lands be held in public trust, for the better-*  
24                       *ment of the conditions of Native Hawaiians,*  
25                       *as that term is defined in section 201 of the*

1           *Hawaiian Homes Commission Act, 1920*  
2           *(42 Stat. 108 et seq.)*; and

3                     (ii) *by transferring the United States*  
4                     *responsibility for the administration of Ha-*  
5                     *waiian Home Lands to the State of Ha-*  
6                     *waii, but retaining the authority to enforce*  
7                     *the trust, including the exclusive right of the*  
8                     *United States to consent to any actions af-*  
9                     *fecting the lands which comprise the corpus*  
10                    *of the trust and any amendments to the Ha-*  
11                    *waiian Homes Commission Act, 1920 (42*  
12                    *Stat. 108 et seq.), enacted by the legislature*  
13                    *of the State of Hawaii affecting the rights*  
14                    *of beneficiaries under the Act;*

15                   (C) *the authorization of mortgage loans in-*  
16                    *sured by the Federal Housing Administration for*  
17                    *the purchase, construction, or refinancing of*  
18                    *homes on Hawaiian Home Lands under the Act*  
19                    *of June 27, 1934 (commonly referred to as the*  
20                    *“National Housing Act” (42 Stat. 1246 et seq.,*  
21                    *chapter 847; 12 U.S.C. 1701 et seq.))*;

22                   (D) *authorizing Native Hawaiian represen-*  
23                    *tation on the National Commission on American*  
24                    *Indian, Alaska Native, and Native Hawaiian*  
25                    *Housing under Public Law 101–235;*

(E) the inclusion of Native Hawaiians in the definition under section 3764 of title 38, United States Code, applicable to subchapter V of chapter 37 of title 38, United States Code (relating to a housing loan program for Native American veterans); and

(F) the enactment of the Hawaiian Home Lands Recovery Act (109 Stat. 357; 48 U.S.C. 491, note prec.) which establishes a process for the conveyance of Federal lands to the Department of Hawaiian Homes Lands that are equivalent in value to lands acquired by the United States from the Hawaiian Home Lands inventory.

### **SEC. 3. HOUSING ASSISTANCE.**

*The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) is amended by adding at the end the following:*

## **“TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS**

### **“SEC. 801. DEFINITIONS.**

*“In this title:*

*“(1) DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.—The term ‘Department of Hawaiian*

1     *Home Lands’ or ‘Department’ means the agency or*  
 2     *department of the government of the State of Hawaii*  
 3     *that is responsible for the administration of the Ha-*  
 4     *waiian Homes Commission Act, 1920 (42 Stat. 108*  
 5     *et seq.).*

6             “(2) *DIRECTOR.*—*The term ‘Director’ means the*  
 7     *Director of the Department of Hawaiian Home*  
 8     *Lands.*

9             “(3) *ELDERLY FAMILIES; NEAR-ELDERLY FAMI-*  
 10    *LIES.*—

11            “(A) *IN GENERAL.*—*The term ‘elderly fam-*  
 12    *ily’ or ‘near-elderly family’ means a family*  
 13    *whose head (or his or her spouse), or whose sole*  
 14    *member, is—*

15            “(i) *for an elderly family, an elderly*  
 16    *person; or*

17            “(ii) *for a near-elderly family, a near-*  
 18    *elderly person.*

19            “(B) *CERTAIN FAMILIES INCLUDED.*—*The*  
 20    *term ‘elderly family’ or ‘near-elderly family’*  
 21    *includes—*

22            “(i) *2 or more elderly persons or near-*  
 23    *elderly persons, as the case may be, living*  
 24    *together; and*

1                   “(ii) 1 or more persons described in  
 2                   clause (i) living with 1 or more persons de-  
 3                   termined under the housing plan to be es-  
 4                   sential to their care or well-being.

5                   “(4) HAWAIIAN HOME LANDS.—The term ‘Ha-  
 6                   waiian Home Lands’ means lands that—

7                   “(A) have the status as Hawaiian home  
 8                   lands under section 204 of the Hawaiian Homes  
 9                   Commission Act (42 Stat. 110); or

10                  “(B) are acquired pursuant to that Act.

11                  “(5) HOUSING AREA.—The term ‘housing area’  
 12                  means an area of Hawaiian Home Lands with re-  
 13                  spect to which the Department of Hawaiian Home  
 14                  Lands is authorized to provide assistance for afford-  
 15                  able housing under this Act.

16                  “(6) HOUSING ENTITY.—The term ‘housing enti-  
 17                  ty’ means the Department of Hawaiian Home Lands.

18                  “(7) HOUSING PLAN.—The term ‘housing plan’  
 19                  means a plan developed by the Department of Hawai-  
 20                  ian Home Lands.

21                  “(8) MEDIAN INCOME.—The term ‘median in-  
 22                  come’ means, with respect to an area that is a Ha-  
 23                  waiian housing area, the greater of—



1           “(A) *the median income for the Hawaiian*  
 2           *housing area, which shall be determined by the*  
 3           *Secretary; or*

4           “(B) *the median income for the State of*  
 5           *Hawaii.*

6           “(9) *NATIVE HAWAIIAN.—The term ‘Native Ha-*  
 7           *waiian’ means any individual who is—*

8           “(A) *a citizen of the United States; and*

9           “(B) *a descendant of the aboriginal people,*  
 10           *who, prior to 1778, occupied and exercised sov-*  
 11           *ereignty in the area that currently constitutes*  
 12           *the State of Hawaii, as evidenced by—*

13           “(i) *genealogical records;*

14           “(ii) *verification by kupuna (elders) or*  
 15           *kama’aina (long-term community resi-*  
 16           *dents); or*

17           “(iii) *birth records of the State of Ha-*  
 18           *waii.*

19   **“SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING**  
 20           **ACTIVITIES.**

21           “(a) *GRANT AUTHORITY.—For each fiscal year, the*  
 22           *Secretary shall (to the extent amounts are made available*  
 23           *to carry out this title) make a grant under this title to the*  
 24           *Department of Hawaiian Home Lands to carry out afford-*

1 *able housing activities for Native Hawaiian families who*  
 2 *are eligible to reside on the Hawaiian Home Lands.*

3 “(b) *PLAN REQUIREMENT.*—

4 “(1) *IN GENERAL.*—*The Secretary may make a*  
 5 *grant under this title to the Department of Hawaiian*  
 6 *Home Lands for a fiscal year only if—*

7 “(A) *the Director has submitted to the Sec-*  
 8 *retary a housing plan for that fiscal year; and*

9 “(B) *the Secretary has determined under*  
 10 *section 804 that the housing plan complies with*  
 11 *the requirements of section 803.*

12 “(2) *WAIVER.*—*The Secretary may waive the ap-*  
 13 *plicability of the requirements under paragraph (1),*  
 14 *in part, if the Secretary finds that the Department of*  
 15 *Hawaiian Home Lands has not complied or cannot*  
 16 *comply with those requirements due to circumstances*  
 17 *beyond the control of the Department of Hawaiian*  
 18 *Home Lands.*

19 “(c) *USE OF AFFORDABLE HOUSING ACTIVITIES*  
 20 *UNDER PLAN.*—*Except as provided in subsection (e),*  
 21 *amounts provided under a grant under this section may*  
 22 *be used only for affordable housing activities under this title*  
 23 *that are consistent with a housing plan approved under sec-*  
 24 *tion 804.*

25 “(d) *ADMINISTRATIVE EXPENSES.*—

1           “(1) *IN GENERAL.*—*The Secretary shall, by regu-*  
 2           *lation, authorize the Department of Hawaiian Home*  
 3           *Lands to use a percentage of any grant amounts re-*  
 4           *ceived under this title for any reasonable administra-*  
 5           *tive and planning expenses of the Department relat-*  
 6           *ing to carrying out this title and activities assisted*  
 7           *with those amounts.*

8           “(2) *ADMINISTRATIVE AND PLANNING EX-*  
 9           *PENSES.*—*The administrative and planning expenses*  
 10          *referred to in paragraph (1) include—*

11               “(A) *costs for salaries of individuals en-*  
 12               *gaged in administering and managing affordable*  
 13               *housing activities assisted with grant amounts*  
 14               *provided under this title; and*

15               “(B) *expenses incurred in preparing a*  
 16               *housing plan under section 803.*

17          “(e) *PUBLIC-PRIVATE PARTNERSHIPS.*—*The Director*  
 18          *shall make all reasonable efforts, consistent with the pur-*  
 19          *poses of this title, to maximize participation by the private*  
 20          *sector, including nonprofit organizations and for-profit en-*  
 21          *tities, in implementing a housing plan that has been ap-*  
 22          *proved by the Secretary under section 803.*

23          “(f) *APPLICABILITY OF OTHER PROVISIONS.*—

24               “(1) *IN GENERAL.*—*The Secretary shall be guid-*  
 25               *ed by the relevant program requirements of titles I,*

1        *II, and IV in the implementation of housing assist-*  
 2        *ance programs for Native Hawaiians under this title.*

3            *“(2) EXCEPTION.—The Secretary may make ex-*  
 4        *ceptions to, or modifications of, program require-*  
 5        *ments for Native American housing assistance set*  
 6        *forth in titles I, II, and IV as necessary and appro-*  
 7        *priate to meet the unique situation and housing needs*  
 8        *of Native Hawaiians.*

9        **“SEC. 803. HOUSING PLAN.**

10        *“(a) PLAN SUBMISSION.—The Secretary shall—*

11            *“(1) require the Director to submit a housing*  
 12        *plan under this section for each fiscal year; and*

13            *“(2) provide for the review of each plan sub-*  
 14        *mitted under paragraph (1).*

15        *“(b) 5-YEAR PLAN.—Each housing plan under this*  
 16        *section shall—*

17            *“(1) be in a form prescribed by the Secretary;*  
 18        *and*

19            *“(2) contain, with respect to the 5-year period*  
 20        *beginning with the fiscal year for which the plan is*  
 21        *submitted, the following information:*

22            *“(A) MISSION STATEMENT.—A general*  
 23        *statement of the mission of the Department of*  
 24        *Hawaiian Home Lands to serve the needs of the*

1        *low-income families to be served by the Depart-*  
 2        *ment.*

3                “(B) *GOAL AND OBJECTIVES.*—*A statement*  
 4        *of the goals and objectives of the Department of*  
 5        *Hawaiian Home Lands to enable the Depart-*  
 6        *ment to serve the needs identified in subpara-*  
 7        *graph (A) during the period.*

8                “(C) *ACTIVITIES PLANS.*—*An overview of*  
 9        *the activities planned during the period includ-*  
 10        *ing an analysis of the manner in which the ac-*  
 11        *tivities will enable the Department to meet its*  
 12        *mission, goals, and objectives.*

13        “(c) *1-YEAR PLAN.*—*A housing plan under this section*  
 14        *shall—*

15                “(1) *be in a form prescribed by the Secretary;*  
 16        *and*

17                “(2) *contain the following information relating*  
 18        *to the fiscal year for which the assistance under this*  
 19        *title is to be made available:*

20                “(A) *GOALS AND OBJECTIVES.*—*A statement*  
 21        *of the goals and objectives to be accomplished*  
 22        *during the period covered by the plan.*

23                “(B) *STATEMENT OF NEEDS.*—*A statement*  
 24        *of the housing needs of the low-income families*  
 25        *served by the Department and the means by*

1       *which those needs will be addressed during the*  
 2       *period covered by the plan, including—*

3               “(i) *a description of the estimated*  
 4               *housing needs and the need for assistance*  
 5               *for the low-income families to be served by*  
 6               *the Department, including a description of*  
 7               *the manner in which the geographical dis-*  
 8               *tribution of assistance is consistent with—*

9               “(I) *the geographical needs of*  
 10              *those families; and*

11              “(II) *needs for various categories*  
 12              *of housing assistance; and*

13              “(ii) *a description of the estimated*  
 14              *housing needs for all families to be served*  
 15              *by the Department.*

16              “(C) *FINANCIAL RESOURCES.—An oper-*  
 17              *ating budget for the Department of Hawaiian*  
 18              *Home Lands, in a form prescribed by the Sec-*  
 19              *retary, that includes—*

20              “(i) *an identification and a descrip-*  
 21              *tion of the financial resources reasonably*  
 22              *available to the Department to carry out the*  
 23              *purposes of this title, including an expla-*  
 24              *nation of the manner in which amounts*

made available will be used to leverage additional resources; and

“(ii) the uses to which the resources described in clause (i) will be committed, including—

“(I) eligible and required affordable housing activities; and

“(II) administrative expenses.

“(D) AFFORDABLE HOUSING RESOURCES.—

A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

“(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing;

“(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

“(I) rental assistance;

“(II) the production of new units;

1                   “(III) the acquisition of existing  
2                   units; or

3                   “(IV) the rehabilitation of units;

4                   “(iii) a description of the structure, co-  
5                   ordination, and means of cooperation be-  
6                   tween the Department of Hawaiian Home  
7                   Lands and any other governmental entities  
8                   in the development, submission, or imple-  
9                   mentation of housing plans, including a de-  
10                  scription of—

11                  “(I) the involvement of private,  
12                  public, and nonprofit organizations  
13                  and institutions;

14                  “(II) the use of loan guarantees  
15                  under section 184A of the Housing and  
16                  Community Development Act of 1992;  
17                  and

18                  “(III) other housing assistance  
19                  provided by the United States, includ-  
20                  ing loans, grants, and mortgage insur-  
21                  ance;

22                  “(iv) a description of the manner in  
23                  which the plan will address the needs iden-  
24                  tified pursuant to subparagraph (C);

25                  “(v) a description of—



1           “(I) any existing or anticipated  
 2           homeownership programs and rental  
 3           programs to be carried out during the  
 4           period covered by the plan; and

5           “(II) the requirements and assist-  
 6           ance available under the programs re-  
 7           ferred to in subclause (I);

8           “(vi) a description of—

9           “(I) any existing or anticipated  
 10          housing rehabilitation programs nec-  
 11          essary to ensure the long-term viability  
 12          of the housing to be carried out during  
 13          the period covered by the plan; and

14          “(II) the requirements and assist-  
 15          ance available under the programs re-  
 16          ferred to in subclause (I);

17          “(vii) a description of—

18          “(I) all other existing or antici-  
 19          pated housing assistance provided by  
 20          the Department of Hawaiian Home  
 21          Lands during the period covered by the  
 22          plan, including—

23                  “(aa) transitional housing;

24                  “(bb) homeless housing;

25                  “(cc) college housing; and

1                   “(dd)   supportive    services  
2                   housing; and

3                   “(II) the requirements and assist-  
4                   ance available under such programs;

5                   “(viii)(I) a description of any housing  
6                   to be demolished or disposed of;

7                   “(II) a timetable for that demolition or  
8                   disposition; and

9                   “(III) any other information required  
10                  by the Secretary with respect to that demo-  
11                  lition or disposition;

12                  “(ix) a description of the manner in  
13                  which the Department of Hawaiian Home  
14                  Lands will coordinate with welfare agencies  
15                  in the State of Hawaii to ensure that resi-  
16                  dents of the affordable housing will be pro-  
17                  vided with access to resources to assist in  
18                  obtaining employment and achieving self-  
19                  sufficiency;

20                  “(x) a description of the requirements  
21                  established by the Department of Hawaiian  
22                  Home Lands to—

23                         “(I) promote the safety of resi-  
24                         dents of the affordable housing;

1                   “(II) facilitate the undertaking of  
2                   *crime prevention measures;*

3                   “(III) allow resident input and  
4                   *involvement, including the establish-*  
5                   *ment of resident organizations; and*

6                   “(IV) allow for the coordination of  
7                   *crime prevention activities between the*  
8                   *Department and local law enforcement*  
9                   *officials; and*

10                  “(xi) a description of the entities that  
11                  *will carry out the activities under the plan,*  
12                  *including the organizational capacity and*  
13                  *key personnel of the entities.*

14                  “(E) CERTIFICATION OF COMPLIANCE.—  
15                  *Evidence of compliance that shall include, as*  
16                  *appropriate—*

17                         “(i) a certification that the Depart-  
18                         *ment of Hawaiian Home Lands will com-*  
19                         *ply with—*

20                                 “(I) title VI of the Civil Rights  
21                                 *Act of 1964 (42 U.S.C. 2000d et seq.)*  
22                                 *or with title VIII of the Act popularly*  
23                                 *known as the ‘Civil Rights Act of 1968’*  
24                                 *(42 U.S.C. 3601 et seq.) in carrying*

1                   out this title, to the extent that such  
2                   title is applicable; and

3                   “(II) other applicable Federal  
4                   statutes;

5                   “(ii) a certification that the Depart-  
6                   ment will require adequate insurance cov-  
7                   erage for housing units that are owned and  
8                   operated or assisted with grant amounts  
9                   provided under this title, in compliance  
10                  with such requirements as may be estab-  
11                  lished by the Secretary;

12                  “(iii) a certification that policies are  
13                  in effect and are available for review by the  
14                  Secretary and the public governing the eli-  
15                  gibility, admission, and occupancy of fami-  
16                  lies for housing assisted with grant amounts  
17                  provided under this title;

18                  “(iv) a certification that policies are in  
19                  effect and are available for review by the  
20                  Secretary and the public governing rents  
21                  charged, including the methods by which  
22                  such rents or homebuyer payments are de-  
23                  termined, for housing assisted with grant  
24                  amounts provided under this title; and

1                   “(v) a certification that policies are in  
 2                   effect and are available for review by the  
 3                   Secretary and the public governing the  
 4                   management and maintenance of housing  
 5                   assisted with grant amounts provided under  
 6                   this title.

7                   “(d) *APPLICABILITY OF CIVIL RIGHTS STATUTES.*—

8                   “(1) *IN GENERAL.*—To the extent that the re-  
 9                   quirements of title VI of the Civil Rights Act of 1964  
 10                  (42 U.S.C. 2000d et seq.) or of title VIII of the Act  
 11                  popularly known as the ‘Civil Rights Act of 1968’ (42  
 12                  U.S.C. 3601 et seq.) apply to assistance provided  
 13                  under this title, nothing in the requirements con-  
 14                  cerning discrimination on the basis of race shall be  
 15                  construed to prevent the provision of assistance under  
 16                  this title—

17                  “(A) to the Department of Hawaiian Home  
 18                  Lands on the basis that the Department served  
 19                  Native Hawaiians; or

20                  “(B) to an eligible family on the basis that  
 21                  the family is a Native Hawaiian family.

22                  “(2) *CIVIL RIGHTS.*—Program eligibility under  
 23                  this title may be restricted to Native Hawaiians. Sub-  
 24                  ject to the preceding sentence, no person may be dis-  
 25                  criminated against on the basis of race, color, na-

1        *tional origin, religion, sex, familial status, or dis-*  
 2        *ability.*

3        “(e) *USE OF NONPROFIT ORGANIZATIONS.*—*As a con-*  
 4        *dition of receiving grant amounts under this title, the De-*  
 5        *partment of Hawaiian Home Lands shall, to the extent*  
 6        *practicable, provide for private nonprofit organizations ex-*  
 7        *perienced in the planning and development of affordable*  
 8        *housing for Native Hawaiians to carry out affordable hous-*  
 9        *ing activities with those grant amounts.*

10    **“SEC. 804. REVIEW OF PLANS.**

11        “(a) *REVIEW AND NOTICE.*—

12            “(1) *REVIEW.*—

13                    “(A) *IN GENERAL.*—*The Secretary shall*  
 14                    *conduct a review of a housing plan submitted to*  
 15                    *the Secretary under section 803 to ensure that*  
 16                    *the plan complies with the requirements of that*  
 17                    *section.*

18                    “(B) *LIMITATION.*—*The Secretary shall*  
 19                    *have the discretion to review a plan referred to*  
 20                    *in subparagraph (A) only to the extent that the*  
 21                    *Secretary considers that the review is necessary.*

22            “(2) *NOTICE.*—

23                    “(A) *IN GENERAL.*—*Not later than 60 days*  
 24                    *after receiving a plan under section 803, the Sec-*  
 25                    *retary shall notify the Director of the Depart-*

1           *ment of Hawaiian Home Lands whether the*  
 2           *plan complies with the requirements under that*  
 3           *section.*

4           “(B) *EFFECT OF FAILURE OF SECRETARY*  
 5           *TO TAKE ACTION.*—*For purposes of this title, if*  
 6           *the Secretary does not notify the Director, as re-*  
 7           *quired under this subsection and subsection (b),*  
 8           *upon the expiration of the 60-day period de-*  
 9           *scribed in subparagraph (A)—*

10           “(i) *the plan shall be considered to*  
 11           *have been determined to comply with the re-*  
 12           *quirements under section 803; and*

13           “(ii) *the Director shall be considered to*  
 14           *have been notified of compliance.*

15           “(b) *NOTICE OF REASONS FOR DETERMINATION OF*  
 16           *NONCOMPLIANCE.*—*If the Secretary determines that a plan*  
 17           *submitted under section 803 does not comply with the re-*  
 18           *quirements of that section, the Secretary shall specify in*  
 19           *the notice under subsection (a)—*

20           “(1) *the reasons for noncompliance; and*

21           “(2) *any modifications necessary for the plan to*  
 22           *meet the requirements of section 803.*

23           “(c) *REVIEW.*—

24           “(1) *IN GENERAL.*—*After the Director of the De-*  
 25           *partment of Hawaiian Home Lands submits a hous-*

1     *ing plan under section 803, or any amendment or*  
 2     *modification to the plan to the Secretary, to the ex-*  
 3     *tent that the Secretary considers such action to be*  
 4     *necessary to make a determination under this sub-*  
 5     *section, the Secretary shall review the plan (including*  
 6     *any amendments or modifications thereto) to deter-*  
 7     *mine whether the contents of the plan—*

8             *“(A) set forth the information required by*  
 9             *section 803 to be contained in the housing plan;*

10            *“(B) are consistent with information and*  
 11            *data available to the Secretary; and*

12            *“(C) are not prohibited by or inconsistent*  
 13            *with any provision of this Act or any other ap-*  
 14            *plicable law.*

15            *“(2) INCOMPLETE PLANS.—If the Secretary de-*  
 16            *termines under this subsection that any of the appro-*  
 17            *priate certifications required under section*  
 18            *803(c)(2)(E) are not included in a plan, the plan*  
 19            *shall be considered to be incomplete.*

20            *“(d) UPDATES TO PLAN.—*

21            *“(1) IN GENERAL.—Subject to paragraph (2),*  
 22            *after a plan under section 803 has been submitted for*  
 23            *a fiscal year, the Director of the Department of Ha-*  
 24            *waiian Home Lands may comply with the provisions*  
 25            *of that section for any succeeding fiscal year (with re-*



1        *spect to information included for the 5-year period*  
 2        *under section 803(b) or for the 1-year period under*  
 3        *section 803(c)) by submitting only such information*  
 4        *regarding such changes as may be necessary to update*  
 5        *the plan previously submitted.*

6                “(2) *COMPLETE PLANS.*—*The Director shall sub-*  
 7        *mit a complete plan under section 803 not later than*  
 8        *4 years after submitting an initial plan under that*  
 9        *section, and not less frequently than every 4 years*  
 10       *thereafter.*

11              “(e) *EFFECTIVE DATE.*—*This section and section 803*  
 12       *shall take effect on the date provided by the Secretary pur-*  
 13       *suant to section 807(a) to provide for timely submission*  
 14       *and review of the housing plan as necessary for the provi-*  
 15       *sion of assistance under this title for fiscal year 2000.*

16        **“SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR**  
 17                                **STANDARDS.**

18              “(a) *PROGRAM INCOME.*—

19                      “(1) *AUTHORITY TO RETAIN.*—*The Department*  
 20       *of Hawaiian Home Lands may retain any program*  
 21       *income that is realized from any grant amounts re-*  
 22       *ceived by the Department under this title if—*

23                              “(A) *that income was realized after the ini-*  
 24                              *tial disbursement of the grant amounts received*  
 25                              *by the Department; and*

1           “(B) *the Director agrees to use the program*  
 2           *income for affordable housing activities in ac-*  
 3           *cordance with the provisions of this title.*

4           “(2) *PROHIBITION OF REDUCTION OF GRANT.—*  
 5           *The Secretary may not reduce the grant amount for*  
 6           *the Department of Hawaiian Home Lands based sole-*  
 7           *ly on—*

8           “(A) *whether the Department retains pro-*  
 9           *gram income under paragraph (1); or*

10           “(B) *the amount of any such program in-*  
 11           *come retained.*

12           “(3) *EXCLUSION OF AMOUNTS.—The Secretary*  
 13           *may, by regulation, exclude from consideration as*  
 14           *program income any amounts determined to be so*  
 15           *small that compliance with the requirements of this*  
 16           *subsection would create an unreasonable administra-*  
 17           *tive burden on the Department.*

18           “(b) *LABOR STANDARDS.—*

19           “(1) *IN GENERAL.—Any contract or agreement*  
 20           *for assistance, sale, or lease pursuant to this title*  
 21           *shall contain—*

22           “(A) *a provision requiring that an amount*  
 23           *not less than the wages prevailing in the locality,*  
 24           *as determined or adopted (subsequent to a deter-*  
 25           *mination under applicable State or local law) by*

1        *the Secretary, shall be paid to all architects,*  
 2        *technical engineers, draftsmen, technicians em-*  
 3        *ployed in the development and all maintenance,*  
 4        *and laborers and mechanics employed in the op-*  
 5        *eration, of the affordable housing project in-*  
 6        *volved; and*

7                *“(B) a provision that an amount not less*  
 8        *than the wages prevailing in the locality, as pre-*  
 9        *determined by the Secretary of Labor pursuant*  
 10        *to the Act commonly known as the ‘Davis-Bacon*  
 11        *Act’ (46 Stat. 1494, chapter 411; 40 U.S.C. 276a*  
 12        *et seq.) shall be paid to all laborers and mechan-*  
 13        *ics employed in the development of the affordable*  
 14        *housing involved.*

15                *“(2) EXCEPTIONS.—Paragraph (1) and provi-*  
 16        *sions relating to wages required under paragraph (1)*  
 17        *in any contract or agreement for assistance, sale, or*  
 18        *lease under this title, shall not apply to any indi-*  
 19        *vidual who performs the services for which the indi-*  
 20        *vidual volunteered and who is not otherwise employed*  
 21        *at any time in the construction work and received no*  
 22        *compensation or is paid expenses, reasonable benefits,*  
 23        *or a nominal fee for those services.*

24    **“SEC. 806. ENVIRONMENTAL REVIEW.**

25                *“(a) IN GENERAL.—*

1 “(1) *RELEASE OF FUNDS.*—

2 “(A) *IN GENERAL.*—*The Secretary may*  
3 *carry out the alternative environmental protec-*  
4 *tion procedures described in subparagraph (B)*  
5 *in order to ensure—*

6 “(i) *that the policies of the National*  
7 *Environmental Policy Act of 1969 (42*  
8 *U.S.C. 4321 et seq.) and other provisions of*  
9 *law that further the purposes of such Act*  
10 *(as specified in regulations issued by the*  
11 *Secretary) are most effectively implemented*  
12 *in connection with the expenditure of grant*  
13 *amounts provided under this title; and*

14 “(ii) *to the public undiminished pro-*  
15 *tection of the environment.*

16 “(B) *ALTERNATIVE ENVIRONMENTAL PRO-*  
17 *TECTION PROCEDURE.*—*In lieu of applying envi-*  
18 *ronmental protection procedures otherwise appli-*  
19 *cable, the Secretary may by regulation provide*  
20 *for the release of funds for specific projects to the*  
21 *Department of Hawaiian Home Lands if the Di-*  
22 *rector of the Department assumes all of the re-*  
23 *sponsibilities for environmental review, decision-*  
24 *making, and action under the National Environ-*  
25 *mental Policy Act of 1969 (42 U.S.C. 4321 et*

1        *seq.), and such other provisions of law as the reg-*  
 2        *ulations of the Secretary specify, that would*  
 3        *apply to the Secretary were the Secretary to un-*  
 4        *dertake those projects as Federal projects.*

5        *“(2) REGULATIONS.—*

6                *“(A) IN GENERAL.—The Secretary shall*  
 7        *issue regulations to carry out this section only*  
 8        *after consultation with the Council on Environ-*  
 9        *mental Quality.*

10              *“(B) CONTENTS.—The regulations issued*  
 11        *under this paragraph shall—*

12                      *“(i) provide for the monitoring of the*  
 13        *environmental reviews performed under this*  
 14        *section;*

15                      *“(ii) in the discretion of the Secretary,*  
 16        *facilitate training for the performance of*  
 17        *such reviews; and*

18                      *“(iii) provide for the suspension or ter-*  
 19        *mination of the assumption of responsibil-*  
 20        *ities under this section.*

21        *“(3) EFFECT ON ASSUMED RESPONSIBILITY.—*

22        *The duty of the Secretary under paragraph (2)(B)*  
 23        *shall not be construed to limit or reduce any responsi-*  
 24        *bility assumed by the Department of Hawaiian Home*

1     *Lands for grant amounts with respect to any specific*  
 2     *release of funds.*

3     “(b) *PROCEDURE.*—

4             “(1) *IN GENERAL.*—*The Secretary shall author-*  
 5     *ize the release of funds subject to the procedures under*  
 6     *this section only if, not less than 15 days before that*  
 7     *approval and before any commitment of funds to such*  
 8     *projects, the Director of the Department of Hawaiian*  
 9     *Home Lands submits to the Secretary a request for*  
 10    *such release accompanied by a certification that meets*  
 11    *the requirements of subsection (c).*

12            “(2) *EFFECT OF APPROVAL.*—*The approval of*  
 13    *the Secretary of a certification described in para-*  
 14    *graph (1) shall be deemed to satisfy the responsibil-*  
 15    *ities of the Secretary under the National Environ-*  
 16    *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*  
 17    *and such other provisions of law as the regulations of*  
 18    *the Secretary specify to the extent that those respon-*  
 19    *sibilities relate to the releases of funds for projects*  
 20    *that are covered by that certification.*

21            “(c) *CERTIFICATION.*—*A certification under the proce-*  
 22    *dures under this section shall—*

23                    “(1) *be in a form acceptable to the Secretary;*

24                    “(2) *be executed by the Director of the Depart-*  
 25    *ment of Hawaiian Home Lands;*

1           “(3) specify that the Department of Hawaiian  
 2       Home Lands has fully carried out its responsibilities  
 3       as described under subsection (a); and

4           “(4) specify that the Director—

5               “(A) consents to assume the status of a re-  
 6       sponsible Federal official under the National En-  
 7       vironmental Policy Act of 1969 (42 U.S.C. 4321  
 8       et seq.) and each provision of law specified in  
 9       regulations issued by the Secretary to the extent  
 10      that those laws apply by reason of subsection (a);  
 11      and

12               “(B) is authorized and consents on behalf of  
 13      the Department of Hawaiian Home Lands and  
 14      the Director to accept the jurisdiction of the Fed-  
 15      eral courts for the purpose of enforcement of the  
 16      responsibilities of the Director of the Department  
 17      of Hawaiian Home Lands as such an official.

18   **“SEC. 807. REGULATIONS.**

19           “The Secretary shall issue final regulations necessary  
 20   to carry out this title not later than October 1, 1999.

21   **“SEC. 808. EFFECTIVE DATE.**

22           “Except as otherwise expressly provided in this title,  
 23   this title shall take effect on October 1, 1999.

1 **“SEC. 809. AFFORDABLE HOUSING ACTIVITIES.**

2 “(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMI-  
3 LIES.—

4 “(1) PRIMARY OBJECTIVE.—*The national objec-*  
5 *tives of this title are—*

6 “(A) *to assist and promote affordable hous-*  
7 *ing activities to develop, maintain, and operate*  
8 *affordable housing in safe and healthy environ-*  
9 *ments for occupancy by low-income Native Ha-*  
10 *waiian families;*

11 “(B) *to ensure better access to private mort-*  
12 *gage markets and to promote self-sufficiency of*  
13 *low-income Native Hawaiian families;*

14 “(C) *to coordinate activities to provide*  
15 *housing for low-income Native Hawaiian fami-*  
16 *lies with Federal, State and local activities to*  
17 *further economic and community development;*

18 “(D) *to plan for and integrate infrastruc-*  
19 *ture resources on the Hawaiian Home Lands*  
20 *with housing development; and*

21 “(E) *to—*

22 “(i) *promote the development of private*  
23 *capital markets; and*

24 “(ii) *allow the markets referred to in*  
25 *clause (i) to operate and grow, thereby bene-*  
26 *fitting Native Hawaiian communities.*



1 “(2) *ELIGIBLE FAMILIES.*—

2 “(A) *IN GENERAL.*—*Except as provided*  
 3 *under subparagraph (B), assistance for eligible*  
 4 *housing activities under this title shall be limited*  
 5 *to low-income Native Hawaiian families.*

6 “(B) *EXCEPTION TO LOW-INCOME REQUIRE-*  
 7 *MENT.*—

8 “(i) *IN GENERAL.*—*The Director may*  
 9 *provide assistance for homeownership ac-*  
 10 *tivities under—*

11 “(I) *section 810(b);*

12 “(II) *model activities under sec-*  
 13 *tion 810(f); or*

14 “(III) *loan guarantee activities*  
 15 *under section 184A of the Housing and*  
 16 *Community Development Act of 1992*  
 17 *to Native Hawaiian families who are*  
 18 *not low-income families, to the extent*  
 19 *that the Secretary approves the activi-*  
 20 *ties under that section to address a*  
 21 *need for housing for those families that*  
 22 *cannot be reasonably met without that*  
 23 *assistance.*

24 “(ii) *LIMITATIONS.*—*The Secretary*  
 25 *shall establish limitations on the amount of*

1           *assistance that may be provided under this*  
 2           *title for activities for families that are not*  
 3           *low-income families.*

4           “(C) *OTHER FAMILIES.*—Notwithstanding  
 5           *paragraph (1), the Director may provide housing*  
 6           *or housing assistance provided through affordable*  
 7           *housing activities assisted with grant amounts*  
 8           *under this title to a family that is not composed*  
 9           *of Native Hawaiians if—*

10           “(i) *the Department determines that*  
 11           *the presence of the family in the housing in-*  
 12           *volved is essential to the well-being of Na-*  
 13           *tive Hawaiian families; and*

14           “(ii) *the need for housing for the fam-*  
 15           *ily cannot be reasonably met without the*  
 16           *assistance.*

17           “(D) *PREFERENCE.*—

18           “(i) *IN GENERAL.*—A housing plan  
 19           *submitted under section 803 may authorize*  
 20           *a preference, for housing or housing assist-*  
 21           *ance provided through affordable housing*  
 22           *activities assisted with grant amounts pro-*  
 23           *vided under this title to be provided, to the*  
 24           *extent practicable, to families that are eligi-*  
 25           *ble to reside on the Hawaiian Home Lands.*

1                   “(ii) *APPLICATION.—In any case in*  
 2                   *which a housing plan provides for pref-*  
 3                   *erence described in clause (i), the Director*  
 4                   *shall ensure that housing activities that are*  
 5                   *assisted with grant amounts under this title*  
 6                   *are subject to that preference.*

7                   “(E) *USE OF NONPROFIT ORGANIZA-*  
 8                   *TIONS.—As a condition of receiving grant*  
 9                   *amounts under this title, the Department of Ha-*  
 10                   *waiian Home Lands, shall to the extent prac-*  
 11                   *ticable, provide for private nonprofit organiza-*  
 12                   *tions experienced in the planning and develop-*  
 13                   *ment of affordable housing for Native Hawaiians*  
 14                   *to carry out affordable housing activities with*  
 15                   *those grant amounts.*

16 **“SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.**

17                   “(a) *IN GENERAL.—Affordable housing activities*  
 18                   *under this section are activities conducted in accordance*  
 19                   *with the requirements of section 811 to—*

20                   “(1) *develop or to support affordable housing for*  
 21                   *rental or homeownership; or*

22                   “(2) *provide housing services with respect to af-*  
 23                   *fordable housing, through the activities described in*  
 24                   *subsection (b).*

1       “(b) *ACTIVITIES.*—*The activities described in this sub-*  
2 *section are the following:*

3               “(1) *DEVELOPMENT.*—*The acquisition, new con-*  
4 *struction, reconstruction, or moderate or substantial*  
5 *rehabilitation of affordable housing, which may*  
6 *include—*

7                       “(A) *real property acquisition;*

8                       “(B) *site improvement;*

9                       “(C) *the development of utilities and utility*  
10 *services;*

11                      “(D) *conversion;*

12                      “(E) *demolition;*

13                      “(F) *financing;*

14                      “(G) *administration and planning; and*

15                      “(H) *other related activities.*

16               “(2) *HOUSING SERVICES.*—*The provision of*  
17 *housing-related services for affordable housing,*  
18 *including—*

19                      “(A) *housing counseling in connection with*  
20 *rental or homeownership assistance;*

21                      “(B) *the establishment and support of resi-*  
22 *dent organizations and resident management*  
23 *corporations;*

24                      “(C) *energy auditing;*

1           “(D) activities related to the provisions of  
2           self-sufficiency and other services; and

3           “(E) other services related to assisting own-  
4           ers, tenants, contractors, and other entities par-  
5           ticipating or seeking to participate in other  
6           housing activities assisted pursuant to this sec-  
7           tion.

8           “(3) *HOUSING MANAGEMENT SERVICES.*—The  
9           provision of management services for affordable hous-  
10          ing, including—

11           “(A) the preparation of work specifications;

12           “(B) loan processing;

13           “(C) inspections;

14           “(D) tenant selection;

15           “(E) management of tenant-based rental as-  
16          sistance; and

17           “(F) management of affordable housing  
18          projects.

19           “(4) *CRIME PREVENTION AND SAFETY ACTIVI-*  
20          *TIES.*—The provision of safety, security, and law en-  
21          forcement measures and activities appropriate to pro-  
22          tect residents of affordable housing from crime.

23           “(5) *MODEL ACTIVITIES.*—Housing activities  
24          under model programs that are—

1           “(A) *designed to carry out the purposes of*  
2           *this title; and*

3           “(B) *specifically approved by the Secretary*  
4           *as appropriate for the purpose referred to in sub-*  
5           *paragraph (A).*

6   **“SEC. 811. PROGRAM REQUIREMENTS.**

7           “(a) *RENTS.—*

8           “(1) *ESTABLISHMENT.—Subject to paragraph*  
9           *(2), as a condition to receiving grant amounts under*  
10          *this title, the Director shall develop written policies*  
11          *governing rents and homebuyer payments charged for*  
12          *dwelling units assisted under this title, including*  
13          *methods by which such rents and homebuyer pay-*  
14          *ments are determined.*

15          “(2) *MAXIMUM RENT.—In the case of any low-*  
16          *income family residing in a dwelling unit assisted*  
17          *with grant amounts under this title, the monthly rent*  
18          *or homebuyer payment (as applicable) for that dwell-*  
19          *ing unit may not exceed 30 percent of the monthly*  
20          *adjusted income of that family.*

21          “(b) *MAINTENANCE AND EFFICIENT OPERATION.—*

22          “(1) *IN GENERAL.—The Director shall, using*  
23          *amounts of any grants received under this title, re-*  
24          *serve and use for operating under section 810 such*  
25          *amounts as may be necessary to provide for the con-*

1        *tinued maintenance and efficient operation of such*  
2        *housing.*

3            “(2) *DISPOSAL OF CERTAIN HOUSING.*—*This*  
4        *subsection may not be construed to prevent the Direc-*  
5        *tor, or any entity funded by the Department, from de-*  
6        *molishing or disposing of housing, pursuant to regu-*  
7        *lations established by the Secretary.*

8            “(c) *INSURANCE COVERAGE.*—*As a condition to receiv-*  
9        *ing grant amounts under this title, the Director shall re-*  
10       *quire adequate insurance coverage for housing units that*  
11       *are owned or operated or assisted with grant amounts pro-*  
12       *vided under this title.*

13           “(d) *ELIGIBILITY FOR ADMISSION.*—*As a condition to*  
14       *receiving grant amounts under this title, the Director shall*  
15       *develop written policies governing the eligibility, admission,*  
16       *and occupancy of families for housing assisted with grant*  
17       *amounts provided under this title.*

18           “(e) *MANAGEMENT AND MAINTENANCE.*—*As a condi-*  
19       *tion to receiving grant amounts under this title, the Direc-*  
20       *tor shall develop policies governing the management and*  
21       *maintenance of housing assisted with grant amounts under*  
22       *this title.*

1 **“SEC. 812. TYPES OF INVESTMENTS.**

2 “(a) *IN GENERAL.*—Subject to section 811 and an ap-  
3 plicable housing plan approved under section 803, the Di-  
4 rector shall have—

5 “(1) *the discretion to use grant amounts for af-*  
6 *fordable housing activities through the use of—*

7 “(A) *equity investments;*

8 “(B) *interest-bearing loans or advances;*

9 “(C) *noninterest-bearing loans or advances;*

10 “(D) *interest subsidies;*

11 “(E) *the leveraging of private investments;*

12 *or*

13 “(F) *any other form of assistance that the*  
14 *Secretary determines to be consistent with the*  
15 *purposes of this title; and*

16 “(2) *the right to establish the terms of assistance*  
17 *provided with funds referred to in paragraph (1).*

18 “(b) *INVESTMENTS.*—The Director may invest grant  
19 amounts for the purposes of carrying out affordable housing  
20 activities in investment securities and other obligations, as  
21 approved by the Secretary.

22 **“SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TAR-**  
23 **GETING.**

24 “(a) *IN GENERAL.*—Housing shall qualify for afford-  
25 able housing for purposes of this title only if—

26 “(1) *each dwelling unit in the housing—*



1           “(A) in the case of rental housing, is made  
 2           available for occupancy only by a family that is  
 3           a low-income family at the time of the initial oc-  
 4           cupancy of that family of that unit; and

5           “(B) in the case of housing for homeowner-  
 6           ship, is made available for purchase only by a  
 7           family that is a low-income family at the time  
 8           of purchase; and

9           “(2) each dwelling unit in the housing will re-  
 10          main affordable, according to binding commitments  
 11          satisfactory to the Secretary, for—

12           “(A) the remaining useful life of the prop-  
 13          erty (as determined by the Secretary) without re-  
 14          gard to the term of the mortgage or to transfer  
 15          of ownership; or

16           “(B) such other period as the Secretary de-  
 17          termines is the longest feasible period of time  
 18          consistent with sound economics and the pur-  
 19          poses of this title, except upon a foreclosure by  
 20          a lender (or upon other transfer in lieu of fore-  
 21          closure) if that action—

22           “(i) recognizes any contractual or legal  
 23          rights of any public agency, nonprofit spon-  
 24          sor, or other person or entity to take an ac-  
 25          tion that would—

1                   “(I) avoid termination of low-in-  
 2                   come affordability, in the case of fore-  
 3                   closure; or

4                   “(II) transfer ownership in lieu of  
 5                   foreclosure; and

6                   “(ii) is not for the purpose of avoiding  
 7                   low-income affordability restrictions, as de-  
 8                   termined by the Secretary.

9           “(b) *EXCEPTION.*—Notwithstanding subsection (a),  
 10   housing assisted pursuant to section 809(a)(2)(B) shall be  
 11   considered affordable housing for purposes of this title.

12   **“SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.**

13           “(a) *LEASES.*—Except to the extent otherwise provided  
 14   by or inconsistent with the laws of the State of Hawaii,  
 15   in renting dwelling units in affordable housing assisted  
 16   with grant amounts provided under this title, the Director,  
 17   owner, or manager shall use leases that—

18                   “(1) do not contain unreasonable terms and con-  
 19                   ditions;

20                   “(2) require the Director, owner, or manager to  
 21                   maintain the housing in compliance with applicable  
 22                   housing codes and quality standards;

23                   “(3) require the Director, owner, or manager to  
 24                   give adequate written notice of termination of the

1       *lease, which shall be the period of time required under*  
2       *applicable State or local law;*

3               “(4) *specify that, with respect to any notice of*  
4       *eviction or termination, notwithstanding any State or*  
5       *local law, a resident shall be informed of the oppor-*  
6       *tunity, before any hearing or trial, to examine any*  
7       *relevant documents, record, or regulations directly re-*  
8       *lated to the eviction or termination;*

9               “(5) *require that the Director, owner, or man-*  
10       *ager may not terminate the tenancy, during the term*  
11       *of the lease, except for serious or repeated violation of*  
12       *the terms and conditions of the lease, violation of ap-*  
13       *plicable Federal, State, or local law, or for other good*  
14       *cause; and*

15               “(6) *provide that the Director, owner, or man-*  
16       *ager may terminate the tenancy of a resident for any*  
17       *activity, engaged in by the resident, any member of*  
18       *the household of the resident, or any guest or other*  
19       *person under the control of the resident, that—*

20                       “(A) *threatens the health or safety of, or*  
21                       *right to peaceful enjoyment of the premises by,*  
22                       *other residents or employees of the Department,*  
23                       *owner, or manager;*

24                       “(B) *threatens the health or safety of, or*  
25                       *right to peaceful enjoyment of their premises by,*

1           *persons residing in the immediate vicinity of the*  
 2           *premises; or*

3           *“(C) is criminal activity (including drug-*  
 4           *related criminal activity) on or off the premises.*

5           *“(b) TENANT OR HOMEBUYER SELECTION.—As a con-*  
 6           *dition to receiving grant amounts under this title, the Di-*  
 7           *rector shall adopt and use written tenant and homebuyer*  
 8           *selection policies and criteria that—*

9           *“(1) are consistent with the purpose of providing*  
 10          *housing for low-income families;*

11          *“(2) are reasonably related to program eligibility*  
 12          *and the ability of the applicant to perform the obliga-*  
 13          *tions of the lease; and*

14          *“(3) provide for—*

15                *“(A) the selection of tenants and home-*  
 16                *buyers from a written waiting list in accordance*  
 17                *with the policies and goals set forth in an appli-*  
 18                *cable housing plan approved under section 803;*  
 19                *and*

20                *“(B) the prompt notification in writing of*  
 21                *any rejected applicant of the grounds for that re-*  
 22                *jection.*

23   **“SEC. 815. REPAYMENT.**

24           *“If the Department of Hawaiian Home Lands uses*  
 25           *grant amounts to provide affordable housing under activi-*

1 *ties under this title and, at any time during the useful life*  
 2 *of the housing, the housing does not comply with the re-*  
 3 *quirement under section 813(a)(2), the Secretary shall—*

4           “(1) *reduce future grant payments on behalf of*  
 5 *the Department by an amount equal to the grant*  
 6 *amounts used for that housing (under the authority*  
 7 *of section 819(a)(2)); or*

8           “(2) *require repayment to the Secretary of any*  
 9 *amount equal to those grant amounts.*

10 **“SEC. 816. ANNUAL ALLOCATION.**

11           *“For each fiscal year, the Secretary shall allocate any*  
 12 *amounts made available for assistance under this title for*  
 13 *the fiscal year, in accordance with the formula established*  
 14 *pursuant to section 817 to the Department of Hawaiian*  
 15 *Home Lands if the Department complies with the require-*  
 16 *ments under this title for a grant under this title.*

17 **“SEC. 817. ALLOCATION FORMULA.**

18           “(a) *ESTABLISHMENT.—The Secretary shall, by regu-*  
 19 *lation issued not later than the expiration of the 6-month*  
 20 *period beginning on the date of enactment of the Native*  
 21 *American Housing Assistance and Self-Determination*  
 22 *Amendments of 1999, in the manner provided under section*  
 23 *807, establish a formula to provide for the allocation of*  
 24 *amounts available for a fiscal year for block grants under*  
 25 *this title in accordance with the requirements of this section.*

1       “(b) *FACTORS FOR DETERMINATION OF NEED.*—The  
 2       *formula under subsection (a) shall be based on factors that*  
 3       *reflect the needs for assistance for affordable housing activi-*  
 4       *ties, including—*

5               “(1) *the number of low-income dwelling units*  
 6               *owned or operated at the time pursuant to a contract*  
 7               *between the Director and the Secretary;*

8               “(2) *the extent of poverty and economic distress*  
 9               *and the number of Native Hawaiian families eligible*  
 10              *to reside on the Hawaiian Home Lands; and*

11              “(3) *any other objectively measurable conditions*  
 12              *that the Secretary and the Director may specify.*

13       “(c) *OTHER FACTORS FOR CONSIDERATION.*—In es-  
 14       *tablishing the formula under subsection (a), the Secretary*  
 15       *shall consider the relative administrative capacities of the*  
 16       *Department of Hawaiian Home Lands and other challenges*  
 17       *faced by the Department, including—*

18              “(1) *geographic distribution within Hawaiian*  
 19              *Home Lands; and*

20              “(2) *technical capacity.*

21       “(d) *EFFECTIVE DATE.*—*This section shall take effect*  
 22       *on the date of enactment of the Native American Housing*  
 23       *Assistance and Self-Determination Amendments of 1999.*

1 **“SEC. 818. REMEDIES FOR NONCOMPLIANCE.**

2       “(a) *ACTIONS BY SECRETARY AFFECTING GRANT*  
3 *AMOUNTS.*—

4               “(1) *IN GENERAL.*—*Except as provided in sub-*  
5 *section (b), if the Secretary finds after reasonable no-*  
6 *tice and opportunity for a hearing that the Depart-*  
7 *ment of Hawaiian Home Lands has failed to comply*  
8 *substantially with any provision of this title, the Sec-*  
9 *retary shall—*

10               “(A) *terminate payments under this title to*  
11 *the Department;*

12               “(B) *reduce payments under this title to the*  
13 *Department by an amount equal to the amount*  
14 *of such payments that were not expended in ac-*  
15 *cordance with this title; or*

16               “(C) *limit the availability of payments*  
17 *under this title to programs, projects, or activi-*  
18 *ties not affected by such failure to comply.*

19               “(2) *ACTIONS.*—*If the Secretary takes an action*  
20 *under subparagraph (A), (B), or (C) of paragraph*  
21 *(1), the Secretary shall continue that action until the*  
22 *Secretary determines that the failure by the Depart-*  
23 *ment to comply with the provision has been remedied*  
24 *by the Department and the Department is in compli-*  
25 *ance with that provision.*

1       “(b) *NONCOMPLIANCE BECAUSE OF A TECHNICAL IN-*  
 2   *CAPACITY.*—*The Secretary may provide technical assistance*  
 3   *for the Department, either directly or indirectly, that is de-*  
 4   *signed to increase the capability and capacity of the Direc-*  
 5   *tor of the Department to administer assistance provided*  
 6   *under this title in compliance with the requirements under*  
 7   *this title if the Secretary makes a finding under subsection*  
 8   *(a), but determines that the failure of the Department to*  
 9   *comply substantially with the provisions of this title—*

10           “(1) *is not a pattern or practice of activities*  
 11       *constituting willful noncompliance; and*

12           “(2) *is a result of the limited capability or ca-*  
 13       *capacity of the Department of Hawaiian Home Lands.*

14       “(c) *REFERRAL FOR CIVIL ACTION.*—

15           “(1) *AUTHORITY.*—*In lieu of, or in addition to,*  
 16       *any action that the Secretary may take under sub-*  
 17       *section (a), if the Secretary has reason to believe that*  
 18       *the Department of Hawaiian Home Lands has failed*  
 19       *to comply substantially with any provision of this*  
 20       *title, the Secretary may refer the matter to the Attor-*  
 21       *ney General of the United States with a recommenda-*  
 22       *tion that an appropriate civil action be instituted.*

23           “(2) *CIVIL ACTION.*—*Upon receiving a referral*  
 24       *under paragraph (1), the Attorney General may bring*  
 25       *a civil action in any United States district court of*



1        *appropriate jurisdiction for such relief as may be ap-*  
 2        *propriate, including an action—*

3                *“(A) to recover the amount of the assistance*  
 4                *furnished under this title that was not expended*  
 5                *in accordance with this title; or*

6                *“(B) for mandatory or injunctive relief.*

7        *“(d) REVIEW.—*

8                *“(1) IN GENERAL.—If the Director receives no-*  
 9                *tice under subsection (a) of the termination, reduc-*  
 10               *tion, or limitation of payments under this Act, the*  
 11               *Director—*

12               *“(A) may, not later than 60 days after re-*  
 13               *ceiving such notice, file with the United States*  
 14               *Court of Appeals for the Ninth Circuit, or in the*  
 15               *United States Court of Appeals for the District*  
 16               *of Columbia, a petition for review of the action*  
 17               *of the Secretary; and*

18               *“(B) upon the filing of any petition under*  
 19               *subparagraph (A), shall forthwith transmit cop-*  
 20               *ies of the petition to the Secretary and the Attor-*  
 21               *ney General of the United States, who shall rep-*  
 22               *resent the Secretary in the litigation.*

23        *“(2) PROCEDURE.—*

24               *“(A) IN GENERAL.—The Secretary shall file*  
 25               *in the court a record of the proceeding on which*

1           *the Secretary based the action, as provided in*  
 2           *section 2112 of title 28, United States Code.*

3           “(B) *OBJECTIONS.*—*No objection to the ac-*  
 4           *tion of the Secretary shall be considered by the*  
 5           *court unless the Department has registered the*  
 6           *objection before the Secretary.*

7           “(3) *DISPOSITION.*—

8           “(A) *COURT PROCEEDINGS.*—

9           “(i) *JURISDICTION OF COURT.*—*The*  
 10           *court shall have jurisdiction to affirm or*  
 11           *modify the action of the Secretary or to set*  
 12           *the action aside in whole or in part.*

13           “(ii) *FINDINGS OF FACT.*—*If supported*  
 14           *by substantial evidence on the record con-*  
 15           *sidered as a whole, the findings of fact by*  
 16           *the Secretary shall be conclusive.*

17           “(iii) *ADDITION.*—*The court may*  
 18           *order evidence, in addition to the evidence*  
 19           *submitted for review under this subsection,*  
 20           *to be taken by the Secretary, and to be*  
 21           *made part of the record.*

22           “(B) *SECRETARY.*—

23           “(i) *IN GENERAL.*—*The Secretary, by*  
 24           *reason of the additional evidence referred to*

1           *in subparagraph (A) and filed with the*  
 2           *court—*

3                   “(I) *may—*

4                           “(aa) *modify the findings of*  
 5                           *fact of the Secretary; or*

6                           “(bb) *make new findings;*  
 7                           *and*

8                   “(II) *shall file—*

9                           “(aa) *such modified or new*  
 10                           *findings; and*

11                           “(bb) *the recommendation of*  
 12                           *the Secretary, if any, for the*  
 13                           *modification or setting aside of*  
 14                           *the original action of the Sec-*  
 15                           *retary.*

16                   “(ii) *FINDINGS.—The findings referred*  
 17                   *to in clause (i)(II)(bb) shall, with respect to*  
 18                   *a question of fact, be considered to be con-*  
 19                   *clusive if those findings are—*

20                           “(I) *supported by substantial evi-*  
 21                           *dence on the record; and*

22                           “(II) *considered as a whole.*

23                   “(4) *FINALITY.—*

1           “(A) *IN GENERAL.*—*Except as provided in*  
 2           *subparagraph (B), upon the filing of the record*  
 3           *under this subsection with the court—*

4                   “(i) *the jurisdiction of the court shall*  
 5                   *be exclusive; and*

6                   “(ii) *the judgment of the court shall be*  
 7                   *final.*

8           “(B) *REVIEW BY SUPREME COURT.*—*A*  
 9           *judgment under subparagraph (A) shall be sub-*  
 10           *ject to review by the Supreme Court of the*  
 11           *United States upon writ of certiorari or certifi-*  
 12           *cation, as provided in section 1254 of title 28,*  
 13           *United States Code.*

14   **“SEC. 819. MONITORING OF COMPLIANCE.**

15           “(a) *ENFORCEABLE AGREEMENTS.*—

16                   “(1) *IN GENERAL.*—*The Director, through bind-*  
 17                   *ing contractual agreements with owners or other au-*  
 18                   *thorized entities, shall ensure long-term compliance*  
 19                   *with the provisions of this title.*

20                   “(2) *MEASURES.*—*The measures referred to in*  
 21                   *paragraph (1) shall provide for—*

22                           “(A) *to the extent allowable by Federal and*  
 23                           *State law, the enforcement of the provisions of*  
 24                           *this title by the Department and the Secretary;*  
 25                           *and*

1                   “(B) remedies for breach of the provisions  
2                   referred to in paragraph (1).

3                   “(b) *PERIODIC MONITORING.*—

4                   “(1) *IN GENERAL.*—Not less frequently than an-  
5                   nually, the Director shall review the activities con-  
6                   ducted and housing assisted under this title to assess  
7                   compliance with the requirements of this title.

8                   “(2) *REVIEW.*—Each review under paragraph  
9                   (1) shall include onsite inspection of housing to deter-  
10                  mine compliance with applicable requirements.

11                  “(3) *RESULTS.*—The results of each review under  
12                  paragraph (1) shall be—

13                         “(A) included in a performance report of  
14                         the Director submitted to the Secretary under  
15                         section 820; and

16                         “(B) made available to the public.

17                  “(c) *PERFORMANCE MEASURES.*—The Secretary shall  
18                  establish such performance measures as may be necessary  
19                  to assess compliance with the requirements of this title.

20                  **“SEC. 820. PERFORMANCE REPORTS.**

21                  “(a) *REQUIREMENT.*—For each fiscal year, the Direc-  
22                  tor shall—

23                         “(1) review the progress the Department has  
24                         made during that fiscal year in carrying out the

1       *housing plan submitted by the Department under sec-*  
 2       *tion 803; and*

3               “(2) *submit a report to the Secretary (in a form*  
 4       *acceptable to the Secretary) describing the conclusions*  
 5       *of the review.*

6       “(b) *CONTENT.—Each report submitted under this sec-*  
 7       *tion for a fiscal year shall—*

8               “(1) *describe the use of grant amounts provided*  
 9       *to the Department of Hawaiian Home Lands for that*  
 10       *fiscal year;*

11              “(2) *assess the relationship of the use referred to*  
 12       *in paragraph (1) to the goals identified in the hous-*  
 13       *ing plan;*

14              “(3) *indicate the programmatic accomplishments*  
 15       *of the Department; and*

16              “(4) *describe the manner in which the Depart-*  
 17       *ment would change its housing plan submitted under*  
 18       *section 803 as a result of its experiences.*

19       “(c) *SUBMISSIONS.—The Secretary shall—*

20              “(1) *establish a date for submission of each re-*  
 21       *port under this section;*

22              “(2) *review each such report; and*

23              “(3) *with respect to each such report, make rec-*  
 24       *ommendations as the Secretary considers appropriate*  
 25       *to carry out the purposes of this title.*

1 “(d) *PUBLIC AVAILABILITY.*—

2 “(1) *COMMENTS BY BENEFICIARIES.*—*In pre-*  
 3 *paring a report under this section, the Director shall*  
 4 *make the report publicly available to the beneficiaries*  
 5 *of the Hawaiian Homes Commission Act, 1920 (42*  
 6 *Stat. 108 et seq.) and give a sufficient amount of time*  
 7 *to permit those beneficiaries to comment on that re-*  
 8 *port before it is submitted to the Secretary (in such*  
 9 *manner and at such time as the Director may deter-*  
 10 *mine).*

11 “(2) *SUMMARY OF COMMENTS.*—*The report shall*  
 12 *include a summary of any comments received by the*  
 13 *Director from beneficiaries under paragraph (1) re-*  
 14 *garding the program to carry out the housing plan.*

15 **“SEC. 821. REVIEW AND AUDIT BY SECRETARY.**

16 “(a) *ANNUAL REVIEW.*—

17 “(1) *IN GENERAL.*—*The Secretary shall, not less*  
 18 *frequently than on an annual basis, make such re-*  
 19 *views and audits as may be necessary or appropriate*  
 20 *to determine whether—*

21 “(A) *the Director has—*

22 “(i) *carried out eligible activities*  
 23 *under this title in a timely manner;*

24 “(ii) *carried out and made certifi-*  
 25 *cations in accordance with the requirements*

1                   *and the primary objectives of this title and*  
 2                   *with other applicable laws; and*

3                   “(iii) *a continuing capacity to carry*  
 4                   *out the eligible activities in a timely man-*  
 5                   *ner;*

6                   “(B) *the Director has complied with the*  
 7                   *housing plan submitted by the Director under*  
 8                   *section 803; and*

9                   “(C) *the performance reports of the Depart-*  
 10                  *ment under section 821 are accurate.*

11                  “(2) *ONSITE VISITS.—Each review conducted*  
 12                  *under this section shall, to the extent practicable, in-*  
 13                  *clude onsite visits by employees of the Department of*  
 14                  *Housing and Urban Development.*

15                  “(b) *REPORT BY SECRETARY.—The Secretary shall*  
 16                  *give the Department of Hawaiian Home Lands not less*  
 17                  *than 30 days to review and comment on a report under*  
 18                  *this subsection. After taking into consideration the com-*  
 19                  *ments of the Department, the Secretary may revise the re-*  
 20                  *port and shall make the comments of the Department and*  
 21                  *the report with any revisions, readily available to the public*  
 22                  *not later than 30 days after receipt of the comments of the*  
 23                  *Department.*

24                  “(c) *EFFECT OF REVIEWS.—The Secretary may make*  
 25                  *appropriate adjustments in the amount of annual grants*



1 *under this title in accordance with the findings of the Sec-*  
 2 *retary pursuant to reviews and audits under this section.*  
 3 *The Secretary may adjust, reduce, or withdraw grant*  
 4 *amounts, or take other action as appropriate in accordance*  
 5 *with the reviews and audits of the Secretary under this sec-*  
 6 *tion, except that grant amounts already expended on afford-*  
 7 *able housing activities may not be recaptured or deducted*  
 8 *from future assistance provided to the Department of Ha-*  
 9 *waiian Home Lands.*

10 **“SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.**

11 *“To the extent that the financial transactions of the*  
 12 *Department of Hawaiian Home Lands involving grant*  
 13 *amounts under this title relate to amounts provided under*  
 14 *this title, those transactions may be audited by the Comp-*  
 15 *troller General of the United States under such regulations*  
 16 *as may be prescribed by the Comptroller General. The*  
 17 *Comptroller General of the United States shall have access*  
 18 *to all books, accounts, records, reports, files, and other pa-*  
 19 *pers, things, or property belonging to or in use by the De-*  
 20 *partment of Hawaiian Home Lands pertaining to such fi-*  
 21 *nancial transactions and necessary to facilitate the audit.*

22 **“SEC. 823. REPORTS TO CONGRESS.**

23 *“(a) IN GENERAL.—Not later than 90 days after the*  
 24 *conclusion of each fiscal year in which assistance under this*

1 *title is made available, the Secretary shall submit to Con-*  
 2 *gress a report that contains—*

3           “(1) *a description of the progress made in ac-*  
 4           *complishing the objectives of this title;*

5           “(2) *a summary of the use of funds available*  
 6           *under this title during the preceding fiscal year; and*

7           “(3) *a description of the aggregate outstanding*  
 8           *loan guarantees under section 184A of the Housing*  
 9           *and Community Development Act of 1992.*

10          “(b) *RELATED REPORTS.—The Secretary may require*  
 11 *the Director to submit to the Secretary such reports and*  
 12 *other information as may be necessary in order for the Sec-*  
 13 *retary to prepare the report required under subsection (a).*

14 **“SEC. 824. AUTHORIZATION OF APPROPRIATIONS.**

15          *“There are authorized to be appropriated to the De-*  
 16 *partment of Housing and Urban Development for grants*  
 17 *under this title such sums as may be necessary for each*  
 18 *of fiscal years 2000, 2001, 2002, 2003, and 2004.”.*

19 **SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUS-**  
 20 **ING.**

21          *Subtitle E of title I of the Housing and Community*  
 22 *Development Act of 1992 is amended by inserting after sec-*  
 23 *tion 184 (12 U.S.C. 1715z–13a) the following:*

1 **“SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN**  
 2 **HOUSING.**

3 “(a) *DEFINITIONS.—In this section:*

4 “(1) *DEPARTMENT OF HAWAIIAN HOME LANDS.—*  
 5 *The term ‘Department of Hawaiian Home Lands’*  
 6 *means the agency or department of the government of*  
 7 *the State of Hawaii that is responsible for the admin-*  
 8 *istration of the Hawaiian Homes Commission Act,*  
 9 *1920 (42 Stat. 108 et seq.).*

10 “(2) *ELIGIBLE ENTITY.—The term ‘eligible enti-*  
 11 *ty’ means a Native Hawaiian family, the Department*  
 12 *of Hawaiian Home Lands, the Office of Hawaiian*  
 13 *Affairs, and private nonprofit or private for-profit or-*  
 14 *ganizations experienced in the planning and develop-*  
 15 *ment of affordable housing for Native Hawaiians.*

16 “(3) *FAMILY.—The term ‘family’ means 1 or*  
 17 *more persons maintaining a household, as the Sec-*  
 18 *retary shall by regulation provide.*

19 “(4) *GUARANTEE FUND.—The term ‘Guarantee*  
 20 *Fund’ means the Native Hawaiian Housing Loan*  
 21 *Guarantee Fund established under subsection (i).*

22 “(5) *HAWAIIAN HOME LANDS.—The term ‘Ha-*  
 23 *waiian Home Lands’ means lands that—*

24 “(A) *have the status of Hawaiian Home*  
 25 *Lands under section 204 of the Hawaiian Homes*  
 26 *Commission Act (42 Stat. 110); or*

1                   “(B) are acquired pursuant to that Act.

2                   “(6) *NATIVE HAWAIIAN*.—The term ‘Native Ha-  
3                   *waiian*’ means any individual who is—

4                   “(A) a citizen of the United States; and

5                   “(B) a descendant of the aboriginal people,  
6                   who, prior to 1778, occupied and exercised sov-  
7                   ereignty in the area that currently constitutes  
8                   the State of Hawaii, as evidenced by—

9                   “(i) genealogical records;

10                  “(ii) verification by kupuna (elders) or  
11                  kama’aina (long-term community resi-  
12                  dents); or

13                  “(iii) birth records of the State of Ha-  
14                  waii.

15                  “(7) *OFFICE OF HAWAIIAN AFFAIRS*.—The term  
16                  ‘Office of Hawaiian Affairs’ means the entity of that  
17                  name established under the constitution of the State  
18                  of Hawaii.

19                  “(b) *AUTHORITY*.—To provide access to sources of pri-  
20                  vate financing to Native Hawaiian families who otherwise  
21                  could not acquire housing financing because of the unique  
22                  legal status of the Hawaiian Home Lands or as a result  
23                  of a lack of access to private financial markets, the Sec-  
24                  retary may guarantee an amount not to exceed 100 percent

1 *of the unpaid principal and interest that is due on an eligi-*  
 2 *ble loan under subsection (b).*

3       “(c) *ELIGIBLE LOANS.—Under this section, a loan is*  
 4 *an eligible loan if that loan meets the following require-*  
 5 *ments:*

6               “(1) *ELIGIBLE BORROWERS.—The loan is made*  
 7 *only to a borrower who is—*

8                       “(A) *a Native Hawaiian family;*

9                       “(B) *the Department of Hawaiian Home*  
 10 *Lands;*

11                      “(C) *the Office of Hawaiian Affairs; or*

12                      “(D) *a private nonprofit organization expe-*  
 13 *rienced in the planning and development of af-*  
 14 *fordable housing for Native Hawaiians.*

15       “(2) *ELIGIBLE HOUSING.—*

16               “(A) *IN GENERAL.—The loan will be used*  
 17 *to construct, acquire, or rehabilitate not more*  
 18 *than 4-family dwellings that are standard hous-*  
 19 *ing and are located on Hawaiian Home Lands*  
 20 *for which a housing plan described in subpara-*  
 21 *graph (B) applies.*

22               “(B) *HOUSING PLAN.—A housing plan de-*  
 23 *scribed in this subparagraph is a housing plan*  
 24 *that—*

1           “(i) *has been submitted and approved*  
2           *by the Secretary under section 803 of the*  
3           *Native American Housing Assistance and*  
4           *Self-Determination Amendments of 1999;*  
5           *and*

6           “(ii) *provides for the use of loan guar-*  
7           *antees under this section to provide afford-*  
8           *able homeownership housing on Hawaiian*  
9           *Home Lands.*

10          “(3) *SECURITY.—The loan may be secured by*  
11          *any collateral authorized under applicable Federal or*  
12          *State law.*

13          “(4) *LENDERS.—*

14               “(A) *IN GENERAL.—The loan shall be made*  
15               *only by a lender approved by, and meeting*  
16               *qualifications established by, the Secretary, in-*  
17               *cluding any lender described in subparagraph*  
18               *(B), except that a loan otherwise insured or*  
19               *guaranteed by an agency of the Federal Govern-*  
20               *ment or made by the Department of Hawaiian*  
21               *Home Lands from amounts borrowed from the*  
22               *United States shall not be eligible for a guar-*  
23               *antee under this section.*

1           “(B) *APPROVAL.*—*The following lenders*  
2           *shall be considered to be lenders that have been*  
3           *approved by the Secretary:*

4                   “(i) *Any mortgagee approved by the*  
5                   *Secretary for participation in the single*  
6                   *family mortgage insurance program under*  
7                   *title II of the National Housing Act (12*  
8                   *U.S.C.A. 1707 et seq.).*

9                   “(ii) *Any lender that makes housing*  
10                  *loans under chapter 37 of title 38, United*  
11                  *States Code, that are automatically guaran-*  
12                  *teed under section 3702(d) of title 38,*  
13                  *United States Code.*

14                  “(iii) *Any lender approved by the Sec-*  
15                  *retary of Agriculture to make guaranteed*  
16                  *loans for single family housing under the*  
17                  *Housing Act of 1949 (42 U.S.C.A. 1441 et*  
18                  *seq.).*

19                  “(iv) *Any other lender that is super-*  
20                  *vised, approved, regulated, or insured by*  
21                  *any agency of the Federal Government.*

22           “(5) *TERMS.*—*The loan shall—*

23                   “(A) *be made for a term not exceeding 30*  
24           *years;*

1           “(B) bear interest (exclusive of the guar-  
2           antee fee under subsection (d) and service  
3           charges, if any) at a rate agreed upon by the  
4           borrower and the lender and determined by the  
5           Secretary to be reasonable, but not to exceed the  
6           rate generally charged in the area (as deter-  
7           mined by the Secretary) for home mortgage loans  
8           not guaranteed or insured by any agency or in-  
9           strumentality of the Federal Government;

10           “(C) involve a principal obligation not  
11           exceeding—

12                   “(i) 97.75 percent of the appraised  
13                   value of the property as of the date the loan  
14                   is accepted for guarantee (or 98.75 percent  
15                   if the value of the property is \$50,000 or  
16                   less); or

17                   “(ii) the amount approved by the Sec-  
18                   retary under this section; and

19           “(D) involve a payment on account of the  
20           property—

21                   “(i) in cash or its equivalent; or

22                   “(ii) through the value of any improve-  
23                   ments to the property made through the  
24                   skilled or unskilled labor of the borrower, as  
25                   the Secretary shall provide.



1       “(d) *CERTIFICATE OF GUARANTEE.*—

2               “(1) *APPROVAL PROCESS.*—

3                       “(A) *IN GENERAL.*—*Before the Secretary*  
 4                       *approves any loan for guarantee under this sec-*  
 5                       *tion, the lender shall submit the application for*  
 6                       *the loan to the Secretary for examination.*

7                       “(B) *APPROVAL.*—*If the Secretary approves*  
 8                       *the application submitted under subparagraph*  
 9                       *(A), the Secretary shall issue a certificate under*  
 10                      *this subsection as evidence of the loan guarantee*  
 11                      *approved.*

12                      “(2) *STANDARD FOR APPROVAL.*—*The Secretary*  
 13                      *may approve a loan for guarantee under this section*  
 14                      *and issue a certificate under this subsection only if*  
 15                      *the Secretary determines that there is a reasonable*  
 16                      *prospect of repayment of the loan.*

17                      “(3) *EFFECT.*—

18                               “(A) *IN GENERAL.*—*A certificate of guar-*  
 19                               *antee issued under this subsection by the Sec-*  
 20                               *retary shall be conclusive evidence of the eligi-*  
 21                               *bility of the loan for guarantee under this section*  
 22                               *and the amount of that guarantee.*

23                               “(B) *EVIDENCE.*—*The evidence referred to*  
 24                               *in subparagraph (A) shall be incontestable in the*  
 25                               *hands of the bearer.*

1           “(C) *FULL FAITH AND CREDIT.*—*The full*  
 2           *faith and credit of the United States is pledged*  
 3           *to the payment of all amounts agreed to be paid*  
 4           *by the Secretary as security for the obligations*  
 5           *made by the Secretary under this section.*

6           “(4) *FRAUD AND MISREPRESENTATION.*—*This*  
 7           *subsection may not be construed—*

8                   “(A) *to preclude the Secretary from estab-*  
 9                   *lishing defenses against the original lender based*  
 10                  *on fraud or material misrepresentation; or*

11                  “(B) *to bar the Secretary from establishing*  
 12                  *by regulations that are on the date of issuance*  
 13                  *or disbursement, whichever is earlier, partial de-*  
 14                  *fenses to the amount payable on the guarantee.*

15           “(e) *GUARANTEE FEE.*—

16                  “(1) *IN GENERAL.*—*The Secretary shall fix and*  
 17                  *collect a guarantee fee for the guarantee of a loan*  
 18                  *under this section, which may not exceed the amount*  
 19                  *equal to 1 percent of the principal obligation of the*  
 20                  *loan.*

21                  “(2) *PAYMENT.*—*The fee under this subsection*  
 22                  *shall—*

23                   “(A) *be paid by the lender at time of*  
 24                   *issuance of the guarantee; and*

1                   “(B) be adequate, in the determination of  
2                   the Secretary, to cover expenses and probable  
3                   losses.

4                   “(3) *DEPOSIT.*—The Secretary shall deposit any  
5                   fees collected under this subsection in the Native Ha-  
6                   waiian Housing Loan Guarantee Fund established  
7                   under subsection (j).

8                   “(f) *LIABILITY UNDER GUARANTEE.*—The liability  
9                   under a guarantee provided under this section shall de-  
10                  crease or increase on a pro rata basis according to any de-  
11                  crease or increase in the amount of the unpaid obligation  
12                  under the provisions of the loan agreement involved.

13                  “(g) *TRANSFER AND ASSUMPTION.*—Notwithstanding  
14                  any other provision of law, any loan guaranteed under this  
15                  section, including the security given for the loan, may be  
16                  sold or assigned by the lender to any financial institution  
17                  subject to examination and supervision by an agency of the  
18                  Federal Government or of any State or the District of Co-  
19                  lumbia.

20                  “(h) *DISQUALIFICATION OF LENDERS AND CIVIL*  
21                  *MONEY PENALTIES.*—

22                  “(1) *IN GENERAL.*—

23                         “(A) *GROUND FOR ACTION.*—The Sec-  
24                         retary may take action under subparagraph (B)  
25                         if the Secretary determines that any lender or

1           *holder of a guarantee certificate under subsection*  
2           *(c)—*

3                   “(i) *has failed—*

4                           “(I) *to maintain adequate ac-*  
5                           *counting records;*

6                           “(II) *to service adequately loans*  
7                           *guaranteed under this section; or*

8                           “(III) *to exercise proper credit or*  
9                           *underwriting judgment; or*

10                   “(ii) *has engaged in practices other-*  
11                   *wise detrimental to the interest of a bor-*  
12                   *rower or the United States.*

13                   “(B) *ACTIONS.—Upon a determination by*  
14                   *the Secretary that a holder of a guarantee certifi-*  
15                   *cate under subsection (c) has failed to carry out*  
16                   *an activity described in subparagraph (A)(i) or*  
17                   *has engaged in practices described in subpara-*  
18                   *graph (A)(ii), the Secretary may—*

19                           “(i) *refuse, either temporarily or per-*  
20                           *manently, to guarantee any further loans*  
21                           *made by such lender or holder;*

22                           “(ii) *bar such lender or holder from ac-*  
23                           *quiring additional loans guaranteed under*  
24                           *this section; and*

1           “(iii) require that such lender or holder  
 2           assume not less than 10 percent of any loss  
 3           on further loans made or held by the lender  
 4           or holder that are guaranteed under this  
 5           section.

6           “(2) CIVIL MONEY PENALTIES FOR INTENTIONAL  
 7           VIOLATIONS.—

8           “(A) IN GENERAL.—The Secretary may im-  
 9           pose a civil monetary penalty on a lender or  
 10          holder of a guarantee certificate under subsection  
 11          (d) if the Secretary determines that the holder or  
 12          lender has intentionally failed—

13               “(i) to maintain adequate accounting  
 14               records;

15               “(ii) to adequately service loans guar-  
 16               anteed under this section; or

17               “(iii) to exercise proper credit or un-  
 18               derwriting judgment.

19           “(B) PENALTIES.—A civil monetary pen-  
 20          alty imposed under this paragraph shall be im-  
 21          posed in the manner and be in an amount pro-  
 22          vided under section 536 of the National Housing  
 23          Act (12 U.S.C.A. 1735f–1) with respect to mort-  
 24          gagees and lenders under that Act.

1           “(3) *PAYMENT ON LOANS MADE IN GOOD*  
 2           *FAITH.*—*Notwithstanding paragraphs (1) and (2), if*  
 3           *a loan was made in good faith, the Secretary may not*  
 4           *refuse to pay a lender or holder of a valid guarantee*  
 5           *on that loan, without regard to whether the lender or*  
 6           *holder is barred under this subsection.*

7           “(i) *PAYMENT UNDER GUARANTEE.*—

8           “(1) *LENDER OPTIONS.*—

9           “(A) *IN GENERAL.*—

10           “(i) *NOTIFICATION.*—*If a borrower on*  
 11           *a loan guaranteed under this section de-*  
 12           *faults on the loan, the holder of the guar-*  
 13           *antee certificate shall provide written notice*  
 14           *of the default to the Secretary.*

15           “(ii) *PAYMENT.*—*Upon providing the*  
 16           *notice required under clause (i), the holder*  
 17           *of the guarantee certificate shall be entitled*  
 18           *to payment under the guarantee (subject to*  
 19           *the provisions of this section) and may pro-*  
 20           *ceed to obtain payment in 1 of the following*  
 21           *manners:*

22           “(I) *FORECLOSURE.*—

23           “(aa) *IN GENERAL.*—*The*  
 24           *holder of the certificate may ini-*  
 25           *tiate foreclosure proceedings (after*

1           *providing written notice of that*  
 2           *action to the Secretary).*

3           “(bb) *PAYMENT.*—Upon a  
 4           *final order by the court author-*  
 5           *izing foreclosure and submission*  
 6           *to the Secretary of a claim for*  
 7           *payment under the guarantee, the*  
 8           *Secretary shall pay to the holder*  
 9           *of the certificate the pro rata por-*  
 10           *tion of the amount guaranteed (as*  
 11           *determined pursuant to subsection*  
 12           *(f)) plus reasonable fees and ex-*  
 13           *penses as approved by the Sec-*  
 14           *retary.*

15           “(cc) *SUBROGATION.*—The  
 16           *rights of the Secretary shall be*  
 17           *subrogated to the rights of the*  
 18           *holder of the guarantee. The hold-*  
 19           *er shall assign the obligation and*  
 20           *security to the Secretary.*

21           “(II) *NO FORECLOSURE.*—

22           “(aa) *IN GENERAL.*—Without  
 23           *seeking foreclosure (or in any case*  
 24           *in which a foreclosure proceeding*  
 25           *initiated under clause (i) con-*

1 *tinues for a period in excess of 1*  
2 *year), the holder of the guarantee*  
3 *may submit to the Secretary a re-*  
4 *quest to assign the obligation and*  
5 *security interest to the Secretary*  
6 *in return for payment of the*  
7 *claim under the guarantee. The*  
8 *Secretary may accept assignment*  
9 *of the loan if the Secretary deter-*  
10 *mines that the assignment is in*  
11 *the best interest of the United*  
12 *States.*

13 “(bb) *PAYMENT.*—Upon as-  
14 *signment, the Secretary shall pay*  
15 *to the holder of the guarantee the*  
16 *pro rata portion of the amount*  
17 *guaranteed (as determined under*  
18 *subsection (f)).*

19 “(cc) *SUBROGATION.*—The  
20 *rights of the Secretary shall be*  
21 *subrogated to the rights of the*  
22 *holder of the guarantee. The hold-*  
23 *er shall assign the obligation and*  
24 *security to the Secretary.*



1           “(B) *REQUIREMENTS.*—Before any pay-  
 2           ment under a guarantee is made under subpara-  
 3           graph (A), the holder of the guarantee shall ex-  
 4           haust all reasonable possibilities of collection.  
 5           Upon payment, in whole or in part, to the hold-  
 6           er, the note or judgment evidencing the debt shall  
 7           be assigned to the United States and the holder  
 8           shall have no further claim against the borrower  
 9           or the United States. The Secretary shall then  
 10          take such action to collect as the Secretary deter-  
 11          mines to be appropriate.

12          “(2) *LIMITATIONS ON LIQUIDATION.*—

13               “(A) *IN GENERAL.*—If a borrower defaults  
 14               on a loan guaranteed under this section that in-  
 15               volves a security interest in restricted Hawaiian  
 16               Home Land property, the mortgagee or the Sec-  
 17               retary shall only pursue liquidation after offer-  
 18               ing to transfer the account to another eligible  
 19               Hawaiian family or the Department of Hawai-  
 20               ian Home Lands.

21               “(B) *LIMITATION.*—If, after action is taken  
 22               under subparagraph (A), the mortgagee or the  
 23               Secretary subsequently proceeds to liquidate the  
 24               account, the mortgagee or the Secretary shall not  
 25               sell, transfer, or otherwise dispose of or alienate

1        *the property described in subparagraph (A) ex-*  
 2        *cept to another eligible Hawaiian family or to*  
 3        *the Department of Hawaiian Home Lands.*

4        “(j) *HAWAIIAN HOUSING LOAN GUARANTEE FUND.*—

5            “(1) *ESTABLISHMENT.*—*There is established in*  
 6        *the Treasury of the United States the Hawaiian*  
 7        *Housing Loan Guarantee Fund for the purpose of*  
 8        *providing loan guarantees under this section.*

9            “(2) *CREDITS.*—*The Guarantee Fund shall be*  
 10        *credited with—*

11            “(A) *any amount, claims, notes, mortgages,*  
 12        *contracts, and property acquired by the Sec-*  
 13        *retary under this section, and any collections*  
 14        *and proceeds therefrom;*

15            “(B) *any amounts appropriated pursuant*  
 16        *to paragraph (7);*

17            “(C) *any guarantee fees collected under sub-*  
 18        *section (d); and*

19            “(D) *any interest or earnings on amounts*  
 20        *invested under paragraph (4).*

21            “(3) *USE.*—*Amounts in the Guarantee Fund*  
 22        *shall be available, to the extent provided in appro-*  
 23        *priations Acts, for—*

24            “(A) *fulfilling any obligations of the Sec-*  
 25        *retary with respect to loans guaranteed under*

1        *this section, including the costs (as that term is*  
 2        *defined in section 502 of the Federal Credit Re-*  
 3        *form Act of 1990 (2 U.S.C. 661a)) of such loans;*

4            *“(B) paying taxes, insurance, prior liens,*  
 5        *expenses necessary to make fiscal adjustment in*  
 6        *connection with the application and transmittal*  
 7        *of collections, and other expenses and advances to*  
 8        *protect the Secretary for loans which are guaran-*  
 9        *teed under this section or held by the Secretary;*

10          *“(C) acquiring such security property at*  
 11        *foreclosure sales or otherwise;*

12          *“(D) paying administrative expenses in*  
 13        *connection with this section; and*

14          *“(E) reasonable and necessary costs of reha-*  
 15        *bilitation and repair to properties that the Sec-*  
 16        *retary holds or owns pursuant to this section.*

17          *“(4) INVESTMENT.—Any amounts in the Guar-*  
 18        *antee Fund determined by the Secretary to be in ex-*  
 19        *cess of amounts currently required at the time of the*  
 20        *determination to carry out this section may be in-*  
 21        *vested in obligations of the United States.*

22          *“(5) LIMITATION ON COMMITMENTS TO GUAR-*  
 23        *ANTEE LOANS AND MORTGAGES.—*

24          *“(A) REQUIREMENT OF APPROPRIATIONS.—*  
 25        *The authority of the Secretary to enter into com-*

1        *mitments to guarantee loans under this section*  
 2        *shall be effective for any fiscal year to the extent,*  
 3        *or in such amounts as are, or have been, pro-*  
 4        *vided in appropriations Acts, without regard to*  
 5        *the fiscal year for which such amounts were ap-*  
 6        *propriated.*

7                “(B) *LIMITATIONS ON COSTS OF GUARAN-*  
 8        *TEES.—The authority of the Secretary to enter*  
 9        *into commitments to guarantee loans under this*  
 10        *section shall be effective for any fiscal year only*  
 11        *to the extent that amounts in the Guarantee*  
 12        *Fund are or have been made available in appro-*  
 13        *priations Acts to cover the costs (as that term*  
 14        *is defined in section 502 of the Federal Credit*  
 15        *Reform Act of 1990 (2 U.S.C. 661a)) of such*  
 16        *loan guarantees for such fiscal year. Any*  
 17        *amounts appropriated pursuant to this subpara-*  
 18        *graph shall remain available until expended.*

19                “(C) *LIMITATION ON OUTSTANDING AGGRE-*  
 20        *GATE PRINCIPAL AMOUNT.—Subject to the limi-*  
 21        *tations in subparagraphs (A) and (B), the Sec-*  
 22        *retary may enter into commitments to guarantee*  
 23        *loans under this section for each of fiscal years*  
 24        *2000, 2001, 2002, 2003, and 2004 with an ag-*

1           gregate outstanding principal amount not ex-  
2           ceeding \$100,000,000 for each such fiscal year.

3           “(6) *LIABILITIES.*—All liabilities and obligations  
4           of the assets credited to the Guarantee Fund under  
5           paragraph (2)(A) shall be liabilities and obligations  
6           of the Guarantee Fund.

7           “(7) *AUTHORIZATION OF APPROPRIATIONS.*—  
8           There are authorized to be appropriated to the Guar-  
9           antee Fund to carry out this section such sums as  
10          may be necessary for each of fiscal years 2000, 2001,  
11          2002, 2003, and 2004.

12          “(k) *REQUIREMENTS FOR STANDARD HOUSING.*—

13                 “(1) *IN GENERAL.*—The Secretary shall, by regu-  
14                 lation, establish housing safety and quality standards  
15                 to be applied for use under this section.

16                 “(2) *STANDARDS.*—The standards referred to in  
17                 paragraph (1) shall—

18                         “(A) provide sufficient flexibility to permit  
19                         the use of various designs and materials in hous-  
20                         ing acquired with loans guaranteed under this  
21                         section; and

22                         “(B) require each dwelling unit in any  
23                         housing acquired in the manner described in  
24                         subparagraph (A) to—

1                   “(i) be decent, safe, sanitary, and mod-  
2                   est in size and design;

3                   “(ii) conform with applicable general  
4                   construction standards for the region in  
5                   which the housing is located;

6                   “(iii) contain a plumbing system  
7                   that—

8                   “(I) uses a properly installed sys-  
9                   tem of piping;

10                  “(II) includes a kitchen sink and  
11                  a partitional bathroom with lavatory,  
12                  toilet, and bath or shower; and

13                  “(III) uses water supply, plumb-  
14                  ing, and sewage disposal systems that  
15                  conform to any minimum standards  
16                  established by the applicable county or  
17                  State;

18                  “(iv) contain an electrical system  
19                  using wiring and equipment properly in-  
20                  stalled to safely supply electrical energy for  
21                  adequate lighting and for operation of ap-  
22                  pliances that conforms to any appropriate  
23                  county, State, or national code;

24                  “(v) be not less than the size provided  
25                  under the applicable locally adopted stand-

ards for size of dwelling units, except that  
the Secretary, upon request of the Department of Hawaiian Home Lands may waive  
the size requirements under this paragraph;  
and

“(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f-4), unless the Secretary determines that the requirements are not applicable.

“(l) *APPLICABILITY OF CIVIL RIGHTS STATUTES.*—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the ‘Civil Rights Act of 1968’ (42 U.S.C.A. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.”.